

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on MONDAY, 27 AUGUST 2018**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Audrey Forrest
Councillor Rory Colville	Councillor Graham Archibald Hardie
Councillor Robin Currie	Councillor Donald MacMillan
Councillor Lorna Douglas	

Attending: Charles Reppke, Head of Governance and Law
Sheila MacFadyen, Senior Solicitor
Cameron Kerr, Applicant
Sergeant Iain MacNicol, Police Scotland
Heather Murray, Police Scotland

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mary-Jean Devon, George Freeman, Roderick McCuish, Jean Moffat, Alastair Redman, Sandy Taylor and Richard Trail.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE (C KERR, HELENSBURGH)

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 Kerr referred to the main issue being that he had failed to declare his convictions on his application form. He explained that he was under the impression that after 3 years these were spent and did not have to be declared. He stressed that he was not trying to pull the wool over eyes and that this was a genuine mistake. He referred to each of the convictions in turn, pointing out that these happened 4½ years ago. He advised that at the time when he was convicted of having no car insurance he had been self-employed and was not making a lot of money. He advised that he had needed the car to get to work and during that time his insurance had lapsed and he needed to work in order to afford the insurance. He acknowledged that he had been stupid at that time and that it had led to him being disqualified from driving. He advised that this happened 4½ years ago and that there have been no issues since then. He confirmed that he was now in a full time job and he acknowledged his mistake over 4 years ago.

POLICE SCOTLAND

Sergeant MacNicol referred to a letter of representation submitted by the Chief Constable which advised of the circumstances surrounding four convictions as a result of incidents which took place on 10 September 2012, 2 May 2013, 21 May 2013 and 2 April 2014 and which Mr Kerr did not declare on his application form. Sergeant MacNicol confirmed that following discussions with Mr Kerr he had been warned about not declaring these convictions on his application form.

MEMBERS' QUESTIONS

Councillor Colville referred to Police Scotland bringing the convictions to the attention of the Committee as a result of these not being declared on the application form. He referred to the convictions for driving without car insurance which had occurred on two separate occasions and advised that it was his opinion that these were serious offences. He asked Sergeant MacNicol to comment. Sergeant MacNicol advised that he was not saying these were not serious offences and that was why they were being brought to the Committee's attention. He pointed out that these had led to a ban from driving for 12 months.

Councillor Colville sought and received confirmation from Sergeant MacNicol that the first offence for lack of insurance was on 21 May 2013 and the other was on 2 April 2014 and that both offences were dealt with on the same day at Court.

Councillor Colville sought and received an explanation from Mr Kerr as to why he had committed the offence of driving without car insurance on two separate occasions almost a year apart.

Councillor Colville sought and received confirmation from Mr Kerr that as he was in full time employment it was his intention to drive taxis in the evenings and on the weekends to assist his family when they were short of taxi drivers for their business.

Councillor Currie received confirmation from Mr Kerr that he now had a clean driving licence and that 3 April 2014 was the last time he received a conviction. He confirmed that following his ban he had been driving since April 2015 and had received no more convictions. He stressed that he had learnt his lesson. He confirmed that he was in full time employment, had moved to Argyll from Glasgow and that he was now in a totally different situation.

Councillor Kinniburgh sought further clarification from Sergeant MacNicol on the dates of offences and the Court dates. Councillor Kinniburgh referred to one of the Court dates happening the day after one of the offences and asked why this had come about so quickly. Sergeant MacNicol advised that this was because of a matter which was not disclosable.

SUMMING UP

Police Scotland

Sergeant MacNicol advised that he was here to advise the Committee of the nature of the convictions which had not been declared and to point out that Mr Kerr had been warned about not declaring these on his application form

Applicant

Mr Kerr advised that prior to these convictions he had been driving for 10 years and had received one speeding conviction during that period. He confirmed that since his convictions and driving ban he had been driving for 3½ years and had not had any further convictions. He advised that it had been a bad period in his life which he had learnt from and was still paying for due to higher insurance premiums. He said that he could appreciate where the Members were coming from regarding their concerns. He confirmed that it was an honest mistake he had made not declaring the convictions on his application form. He advised that he had received no further driving offences since then and that it would not happen again.

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

DEBATE

Councillor Colville advised that he was impressed that Mr Kerr had turned up today and faced up to his past. He said that he had taken note that the Police Scotland letter was simply bringing these convictions to the Committee's attention as they had not been declared on the application form which, he said, was a common occurrence. He confirmed that he was happy to grant the application.

Councillor Hardie advised that one conviction for no insurance he could accept, but two convictions made him feel slightly reserved about granting so he would not be supporting this application.

Councillor Currie advised that he would have no hesitation in granting the application. He commented that the convictions were 4 years ago and that everyone makes mistakes. He pointed out that Mr Kerr's licence as now clean. He noted that Police Scotland were not of the opinion that he was not a fit and proper person to hold a licence and that they were only alerting the Committee to the fact that the convictions were not declared on the application form.

Councillor Blair advised that he had similar concerns to Councillor Hardie but understood the circumstances which had been explained well by Mr Kerr. He commented on Mr Kerr's obligations working for the family firm and thought that this would reflect on his driving behaviour which had improved since the past. He pointed out that the Committee wanted good and safe taxi drivers and wanted the public to be protected. Due to the time that has passed, he confirmed that he was happy to support the application.

Councillor Kinniburgh confirmed that he was also hesitant about granting the application due to the two incidences of no car insurance which he found quite disturbing. He acknowledged that this was a Police representation rather than an objection and referred to Mr Kerr coming today to explain the circumstances and to advise that he had learnt his lesson from this. He advised that taking into account what Mr Kerr had said and what Sergeant MacNicol had said he moved that the application be granted in the knowledge that if there was anything else in the future Mr Kerr could come before this Committee again. Councillor Blair seconded this Motion.

DECISION

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

Having moved an Amendment, which failed to find a seconder, Councillor Hardie asked for his dissent from the foregoing decision to be recorded.

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