

BRISTOL CITY COUNCIL

**MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 3RD SEPTEMBER 2013 AT 10.00 A.M.**

- P Councillor Fi Hance (in the Chair)
- A Councillor Jeff Lovell
- P Councillor David Morris
- P Councillor Afzal Shah (for Cllr Lovell)
- P Councillor Ron Stone

PSP

64.9/13 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Lovell, substitute Councillor Shah.

PSP

65.9/13 DECLARATIONS OF INTEREST

Councillor Shah stated that in relation to Agenda Item No. 8, he knows the Applicant, MB and would not take part in this item.

PSP

66.9/13 PUBLIC FORUM

Nothing was received.

PSP

**67.9/13 CONSIDERATION OF THE SUSPENSION OF COMMITTEE
PROCEDURE RULES (CMR 10 AND 11) RELATING TO THE
MOVING OF MOTIONS AND RULES OF DEBATE FOR THE
DURATION OF THE MEETING**

RESOLVED - that having regard to the quasi-judicial nature of the business on the agenda, those Committee Rules relating to the moving of motions and the rules of debate (CMR 10 and 11) be suspended for the duration of the meeting.

PSP

68.9/13

**APPLICATION FOR THE GRANT OF A STREET TRADING
CONSENT AT CORNER OF FIRST WAY/AVONMOUTH WAY,
AVONMOUTH, BRISTOL
APPLICANT: MR. ROGER MUNROE
PROPOSED TRADING NAME: JUST DELICIOUS**

The Sub-Committee considered a report of the Director of Neighbourhoods and City Development (Agenda Item No. 5) determining an application for the grant of a Street Trading Consent at the following location: Avonmouth Way, Avonmouth, Bristol.

The Applicant was in attendance, accompanied by a colleague.

The Chair explained the procedure that would be followed and everyone introduced themselves.

The Licensing Officer introduced the report and summarised it for everyone.

The Applicant then put his case and answered questions highlighting the following:

- He intends selling hot food from 5.00 pm until 11.00 pm
- He was previously trading from an adjacent site during the day, but this operation was not profitable so he wants to try evening trading
- Most of the other vans in the area close at 2.00pm/3.00 pm
- The Chilli van that occupies the same site is removed after it stops trading each day
- In response to the objections made by Homewares, he stated that he could not be responsible for any problems on the site as he was not trading there; it was noted that Food Standards had not objected to the application; he has always kept his previous site clean and tidy, and provided litter receptacles; he would do the same here
- He intends to run the operation with one member of staff and the van will be taken home at the end of each day
- He summed up his case

The Representative of the Service Director, Legal and Democratic Services reminded Members that they have wide discretion and that as well as the General Conditions, they can also attach other appropriate conditions to any consent granted.

All parties and the representatives of the Director of Neighbourhoods and City Development left the room.

Details of the Committee's findings and reasons for the decision are set out in Appendix 1.

All parties and the representatives of the Director of Neighbourhoods and City Development returned to the room to hear the decision of the Committee.

RESOLVED - that the Street Trading Consent at Corner of First Way/Avonmouth Way be granted subject to the General Conditions at Appendix A of the Report and the following Conditions:

- 1. The consent holder shall ensure that litter checks are carried out regularly in the vicinity of the site,**
- 2. The consent holder shall provide and maintain at his own expense adequate refuse receptacles for litter.**
- 3. The consent holder shall ensure that measures are in place to remove litter or waste accumulating in the immediate vicinity of the site or neighbouring premises.**

**PSP
69.9/13**

EXCLUSION OF PRESS AND PUBLIC

RESOLVED - that under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act as amended by the Local Government (Access to Information) (Variation) Order 2006.

**PSP
70.9/13**

APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER LICENCE – HH-D

(Exempt paragraph 3 – Information relating to person's financial or business affairs)

The Sub-Committee considered an exempt report of the Director of Neighbourhoods (Agenda Item no. 7) considering an application for the grant of a Hackney Carriage (HCD) Driver's Licence.

It was noted that pages 75 to 78 of the papers should be disregarded as they are not relevant to this case.

HH-D was in attendance accompanied by his wife. HH-D produced some additional papers and a copy of these is contained in the Minute Book.

The Chair explained the procedure that would be followed and clarified the powers of the Committee and its role; the Committee is a regularity body which has to decide whether or not HH-D is a fit and proper person to hold the type of licence that he has applied for; the Committee cannot go behind the court conviction or intervene in any of its aftermath; the Committee must apply the Council's Policy on offending behaviour and HH-D must produce enough evidence to satisfy the Committee that it should make an exception to the Policy in his case.

The Licensing Officer introduced the report and summarised it for everyone.

HH-D then put his case and answered questions highlighting the following:

- He drew attention to a letter from Charlotte Leslie MP and explained the background to his case
- He is innocent of any crime and would always protest his innocence. He did not accept that he had done anything wrong and contended that all of the paperwork he had produced showed him to be an innocent man
- He commented upon the number of times the fixture in the Crown Court had been broken. Justice had never happened in his case
- He has bought a new car which has been changed from black to Bristol Blue, however although it has a taxi plate he is unable to use it or allow anyone else to use it
- He is on benefits and his wife is suffering from anxiety and depression
- He is currently unemployed and has not worked since losing his licence

- His last appeal to the Magistrates' Court cost him a lot of money
- There are lot of Stockwood signatories' on his petition because he used to run a chip shop in the area
- He knows of other taxi drivers who have criminal convictions but have been allowed to continue to drive as taxi drivers
- His wife's English is not good and they have two children

When asked by the Chair and other committee members what had happened in his life since the last application (which was quite recent) to persuade them to arrive at a different conclusion HH-D replied that nothing had really happened as his focus had been on the criminal case. He again stated that he had never committed any crime and that the allegation against him was untrue. He repeated that other driver's with convictions had been granted a licence, so why not him?

The Committee Chair and other members gave HH-D a further opportunity to put forward evidence of good character since the last application was refused. It was further emphasised that the committee had no power to overturn or look behind the conviction as HH-D had been convicted on the criminal standard of proof. He gave the following replies to questions:

- His Hackney Carriage Vehicle is simply sitting on the drive although it was licensed and plated. He had not considered renting it out to a licensed driver, as many other proprietors do,
- He had not worked or even done voluntary work as his wife had been ill since the conviction. He is not doing anything at the moment
- There were other drivers with convictions
- The prosecution witness in the criminal case had made up her story. She had no marks on her
- He was the same person and had applied again because there was a number of other drivers with convictions who were licensed

The Licensing Officer confirmed that the owner of a plated vehicle could allow someone to drive it as a taxi provided he/she holds the relevant licence and the vehicle is properly insured.

All parties and the representatives of the Director of Neighbourhoods and City Development left the room.

Details of the Committee's findings and reasons for the decision are set out in Appendix 2.

All parties and the representatives of the Director of Neighbourhoods and City Development returned to the room to hear the decision of the Committee.

RESOLVED - that the application for a Hackney Carriage Driver's Licence by HH-D be refused on the ground contained in section 59 of the Local Government (Miscellaneous Provisions) Act 1976 in that he had not satisfied the Council that he is a fit and proper person to hold such a licence.

**PSP
71.9/13**

APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE LICENCE SEEKING DEPARTURE FROM BRISTOL CITY COUNCIL POLICY – MB

(Exempt paragraph 3 – Information relating to person's financial or business affairs)

MB was in attendance but he was unable to bring the vehicle with him for inspection as it was being repaired.

Members did not consider that they could fully consider the case without being able to inspect the vehicle.

It was therefore

RESOLVED - that the item be deferred until a future Meeting of the Committee when the vehicle is available for inspection.

**PSP
72.9/13**

APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER LICENCE – MW

(Exempt paragraph 3 – Information relating to person's financial or business affairs)

The Licensing Officer advised Members that this item would have to be deferred.

INFORMATION ITEM

PSP

73.9/13 DATE OF NEXT MEETING

**RESOLVED - that the next meeting be held on Tuesday 8th
October 2013 at 10.00 a.m. and is likely to be a meeting of
Sub-Committee A.**

(The meeting ended at 1.00 pm.)

CHAIR

BRISTOL CITY COUNCIL**MINUTES OF MEETING
OF THE PUBLIC SAFETY AND PROTECTION
SUB-COMMITTEE B
HELD ON 3rd SEPTEMBER 2013 AT 10.00 AM****PSP 68.9/13****Agenda Item No: 5****Agenda title****APPLICATION FOR THE GRANT OF A STREET TRADING CONSENT AT
CORNER OF FIRST WAY/AVONMOUTH WAY, AVONMOUTH, BRISTOL
APPLICANT: MR. ROGER MUNROE
PROPOSED TRADING NAME: JUST DELICIOUS****Decision**

that the Street Trading Consent at Corner of First Way/Avonmouth Way be granted subject to the General Conditions at Appendix A of the Report and the following additional Conditions:

1. The consent holder shall ensure that litter checks are carried out regularly in the vicinity of the site,
2. The consent holder shall provide and maintain at his own expense adequate refuse receptacles for litter.
3. The consent holder shall ensure that measures are in place to remove litter or waste arising from customers and to prevent such litter from accumulating in the immediate vicinity of the site or neighbouring premises.

Reasons for Decision

Members considered very carefully all of the written and verbal evidence presented to them.

It was resolved that there was no reason to refuse the application. The Applicant had operated at a different site without complaint and appeared to have adopted good practice in dealing with litter or waste issues. They noted the Applicant's promise to keep the site clean and tidy, and considered that additional Conditions attached to the consent would properly address the objections to the application and any other issues concerning the site not being kept clean and tidy.

Chair's Signature

BRISTOL CITY COUNCIL

MINUTES OF MEETING
OF THE PUBLIC SAFETY AND PROTECTION
SUB-COMMITTEE B
HELD ON 3rd SEPTEMBER 2013 AT 10.00 AM

PSP 70.9/13

Agenda Item No: 7

Agenda title

**APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER
LICENCE – HH-D**

Finding of Fact

- HH-D was convicted a Common Assault by Bristol Magistrates on 6th June 2011. This conviction was upheld following an appeal to the Crown Court
- On a balance of probabilities, HH-D was not a fit and proper person to hold a Hackney Carriage Driver's Licence

Decision

That the application for a Hackney Carriage Driver's Licence by HH-D be refused on the ground contained in section 59 of the Local Government (Miscellaneous Provisions) Act 1976 in that he had not satisfied the Council that he is a fit and proper person to hold such a licence.

Reasons for Decision

Members considered very carefully all of the written and verbal evidence presented to them.

The Members gave HH-D every opportunity to present to them evidence of good character since the last time his application was refused. Of particular concern was HH-D's persistent refusal to accept that he had done anything wrong, notwithstanding that he had been convicted of a serious offence on the criminal standard of proof. This conviction was upheld following a two day appeal to the Crown Court. Consequently, HH-D's reluctance to accept the situation and move on with his life could not be accepted as evidence of rehabilitation or good character.

HH-D had not really advanced any new information since the last time he had appeared before committee. He had made no attempt to find alternative work

or even engage in voluntary work. The main thrust of his argument seemed to be that other driver's with convictions had been granted licences. This was not a valid argument to persuade the Committee that he should be treated as an exception to Council policy as each case must be determined on its individual merits. The Members of the Committee wanted to hear about evidence of good character from HH-D but none seemed to be forthcoming.

HH-D had been convicted of a serious criminal offence involving violence against a female passenger. Having regard to the Council's policy on offending behaviour, a period of at least 5 years free of conviction should pass before an application is entertained. Thereafter between 5 – 8 years free of conviction more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of the conviction.

In the particular circumstances of this case HH-D had very recently had his previous application refused in September 2012. His appeal against the refusal was dismissed in the Magistrates' Court in December 2012 and costs were awarded against him. The Members considered that without robust evidence of good character since this time, HH-D had re-applied far too soon.

On a balance of probabilities, HH-D had not satisfied the Council that he was a fit and proper person to hold a Hackney Carriage Driver's Licence or that he qualified to be treated as an exception to the Council's policy on offending behaviour. In consequence his application must be refused.

Chair's Signature