



Agenda Item No:4 (e)

Bristol City Council Minutes of the Public Safety and Protection Committee

Tuesday 2nd September 2014 at 10.00am

Members Present:-

Councillor Hance (Chair), Councillor Lovell, Councillor Pearce, Councillor Morris

Officers in Attendance:-

Kate Burnham-Davies, Sarah Flower, Patricia Jones

59. Apologies for Absence

None.

60. Declarations of Interest

None.

61. Public Forum

None.

62. Consideration of the Suspension of Committee Procedure Rules (CMR 10 and 11) Relating to the Moving of Motions and Rules and 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.

63. Exclusion of the Press and Public

Resolved - that under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the consideration of the following item, on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 Part I of Schedule 12A to the Act (as amended).

64. Application for the Grant of a Scrap Metal Dealers Site Licence

Resolved – that the application for the grant of a Scrap Metal Dealers Licence be adjourned due to the non-attendance of the applicant.

65. Application for the Grant of a Hackney Carriage Drivers Licence - HHD
(Exempt paragraph 3 - Information relating to a person's financial or business affairs)

The Committee considered an application for the grant of a Hackney Carriage Driver Licence. The applicant (HHD) was present and was accompanied by his local ward councillor.

The Chair outlined the procedure that would be followed and introductions were made.

The Licensing Officer summarised the report and drew attention to the key issues as set out in detail in the report. The Committee noted the background to this case, including the applicant's previous applications for a licence and details of a conviction for the offence of common assault on 6th June 2011.

The Chair advised the applicant that the role of the committee was to decide if he was a fit and proper person to hold a licence, and in doing so the over-riding factor was that of public safety. It was emphasised that BCC Policy guidance on the relevance of criminal behaviour stated that an application would normally be refused if a conviction for common assault was less than 5 years old. The Chair invited the applicant to explain why the committee should use the discretion to set the policy aside and grant the licence.

Below is a summary of the principal points made in support of the application by HHD and his ward councillor:-

- The applicant was a popular and active person in his local community. He was regarded as a friend by his local ward councillor. He was a good person and worthy of the grant of a licence.
- The point was made that a number of other hackney carriage drivers with criminal convictions were still in possession of a licence.
- The applicant had no other criminal record and the prosecution that led to the conviction was laden with irregularities.

The Head of Legal Service's representative advised the applicant that the committee needed to be satisfied that he was a fit and proper person to hold a licence at this point in time - 3 years after being convicted.

The committee advised the applicant that the circumstances of any other driver were not applicable to this case. It was suggested that the applicant should focus on the reasons why the committee should deviate from the policy guidance and grant the licence.

The applicant stated that he understood that he was refused a licence on the last occasion because his character references were insufficient. He now understood that the references he subsequently provided had been rejected. The Licensing Officer pointed out that all references were contained in the papers provided to the committee. One reference had been rejected by her manager.

The applicant informed the committee that he had appealed the conviction and had refused the CPS's offer of a bind over order as a resolution to the appeal because he was not guilty. The committee was advised that the applicant had lost his appeal and the conviction for common assault was upheld.

The applicant stated that he was good reliable driver and drew attention to the petition signed by 220 people. He added that he had not experienced any other misdemeanours in the last 3 years.

The applicant provided the following responses to questions and issues raised by the committee:-

- He had been granted a licence by North Somerset Council and was currently employed as a taxi driver. He was dealing with the public on a daily basis with no problems. The Licensing Officer confirmed that an up to date Disclosure and Barring Check (DBS) was not yet available.
- The point was made that a Knowledge Test was required if a licence lapsed for more than one year. The applicant's local councillor stated that he was very familiar with the geography of the city.
- The applicant was requested to provide his driving licence and it was circulated.
- Reference was made to the transcript of the incident between the applicant and the passenger which led to the conviction for common assault. It was suggested to the applicant that whilst he disputed the assault, the transcript demonstrated an extreme reaction to a situation. The applicant was asked how he would deal with a confrontational or difficult situation now. In response, the applicant stated that he felt he had no human rights as a taxi driver and the passenger was always right. He said if a passenger demanded money from him, he would simply hand it

over as this was what he perceived to be desired by Bristol City Council. He now knew that he was required to “turn the other cheek” however a passenger might behave.

The parties withdrew from the room.

Members noted that should they decide to make an exception to the Policy, they must be satisfied that the exception is justified. Following careful consideration of all of the written and verbal evidence presented to the committee, it was unanimously agreed that the application should be refused.

The parties returned to the room and were advised of the committee’s decision. The details of the Committee’s findings and reasons for the decision are set out below.

Resolved:-

(1) The applicant was afforded a number of opportunities to make representations and persuade the committee that he was a fit and proper person to hold a licence.

(2) The applicant failed to provide compelling reasons that would enable the committee to deviate from Policy and grant the licence.

(3) The Committee could not be satisfied in these circumstances that the applicant was a fit and proper person to hold a licence and the application was therefore refused under section 59 (1) of the Local Government (Miscellaneous Provisions) Act 1976.

- 66. Application for the Grant of a Private Hire Drivers Licence - DD**
(Exempt paragraph 3 - Information relating to a person’s financial or business affairs)

Resolved – that this application be adjourned due to the non-attendance of the applicant.

- 67. Application for the Grant of a Private Hire Drivers Licence - HS**
(Exempt paragraph 3 - Information relating to a person’s financial or business affairs)

The Committee considered an application for the grant of a Private Hire Drivers Licence. The applicant (HS) was present and was accompanied by his brother.

The Chair outlined the procedure that would be followed and introductions were made.

The Licensing Officer summarised the report and drew attention to the key issues as set out in detail in the report. The Committee noted the background to this case, including a Police caution for possession of cannabis on the 25th November 2009. The attention of the committee was drawn to BCC Policy guidance on the relevance of such a caution when considering if a licence should be granted. It was noted that an application would normally be refused if the conviction was less than 5 years old. It was confirmed that in this case, the 5 year period would expire in November 2014 and that the applicant had completed all other relevant checks. It was also noted that a caution was not a conviction although it was evidence of offending behaviour.

The applicant provided the following responses to questions and issues raised by the committee:-

- The applicant explained to the committee that at the time of the offence, he was young and in the wrong place at the wrong time. He did not smoke or take drugs at the time of the offence and it was one random act of stupid behaviour. He had since matured and had a family.
- The applicant provided his driving licence and this was circulated, along with references and a personal letter from the applicant to the committee (??).
- The applicant had received a fixed penalty and 3 points on his licence for using a hand held phone whilst driving. This expired at the end of September 2014.
- The applicant outlined his recent employment history for the committee. His brother added that he wanted something consistent in his life and to settle down.
- The committee heard that the applicant communicated well with the public and had completed the Gold Standard.

The parties withdrew from the room.

Members noted that should they decide to make an exception to the Policy, they must be satisfied that the exception is justified. Following careful consideration of all of the written and verbal evidence presented, it was unanimously agreed that the application should be granted.

The parties returned to the room and were advised of the committee's decision. The details of the Committee's findings and reasons for the decision are set out below.

Resolved:-

- (1) The applicant had demonstrated to the committee that he was a fit and proper person to hold a licence.**

(2) Members noted the applicant's organised approach, his relevant work experience, the fact he had completed all other tests and the fact he was very near the 5 year period expiring in line with the policy.

(3) On this basis and taking into account that the requisite 5 year period was nearing completion, the committee agreed that it was appropriate to depart from the Policy guidance and grant the licence under section 51 (1) of the Local Government (Miscellaneous Provisions) Act 1976.

68. Application for the Grant of a Private Hire Drivers Licence - MO

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

The Committee considered an application for the grant of a Private Hire Drivers Licence. The applicant (MO) was present.

The Chair outlined the procedure that would be followed and introductions were made.

The Licensing Officer circulated a copy of the applicant's driving licence and summarised the report, highlighting the key issues set out in detail in the report. It was reported that checks with DVLA had revealed an offence of driving a vehicle whilst uninsured against third party risk on the 15th January 2011. Attention was drawn to the letter supplied by the applicant (attached at Appendix A) detailing the events which led to the caution.

The committee noted the BCC Policy guidance on the relevance of the caution when considering if a licence should be granted. It was noted that an application would normally be refused if the caution was less than 5 years old.

The committee further noted that all offences had been declared by the applicant, and that he would need to undertake a full medical assessment and complete the Gold Standard Programme if the committee was minded to grant the licence.

The applicant provided the following responses to questions and issues raised by the committee:-

- He was a trusted member of the community and worked with people with mental health problems and people who were isolated.
- The applicant referred to the letter at Appendix A which detailed the circumstances which resulted in the points on his licence.

- The applicant stated that he had been driving for approximately 3 years. He was experienced in driving people around as this was part of his other employment. He had studied hard for the Knowledge Test and was aware of a number of companies who would consider employing him as a private hire driver.
- The offence of driving whilst uninsured against third party risk was discussed. The applicant explained he was being taught to drive by a friend and was unaware of the need for comprehensive insurance. He stated that this was a genuine mistake and he would not jeopardise his livelihood if the committee granted the licence.
- The applicant stated that he was aware of the rules that accompanied the grant of a licence. Specific attention was drawn to the practice of “plying for hire” and the implications of this in terms of insurance.

The parties withdrew from the room.

Members noted that should they decide to make an exception to the Policy, they must be satisfied that the exception is justified. Following careful consideration of all of the written and verbal evidence presented, it was unanimously agreed that the application should be granted.

The parties returned to the room and were advised of the committee's decision. The details of the Committee's findings and reasons for the decision are set out below.

Resolved:-

- (1) The applicant had demonstrated to the committee that he was a fit and proper person to hold a licence.**
- (2) Members noted that the offences they were required to consider had emerged from one single incident and that on this basis, it was appropriate to depart from the Policy guidance and grant the licence under section 51 (1) of the Local Government (Miscellaneous Provisions) Act 1976.**

CHAIR

(The meeting ended at 2.00pm)