



Agenda Item No: 4 (k)

Bristol City Council

**Minutes of the Meeting of the
Public Safety and Protection Committee
Sub Committee A
Held on 14 April 2015 10.00am**

Members present:-

Councillor Tincknell (Chair), Councillor Jethwa, Councillor Langley

Officers in attendance:-

Suzanne Ogborne, Pauline Powell and Carl Knights

1. Apologies for Absence

Apologies had been received from Councillor Leaman.

2. Declarations of Interest

None.

3. Public Forum

None.

4. Consideration of the Suspension of Committee Procedure Rules (CMR10 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.

5. Report of an Application for the Grant of a Private Hire Driver Licence – MAM

The committee considered an application for a Grant of a Private Hire Driver Licence. The applicant (MAM) was present and was accompanied by a friend and an interpreter.

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

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 overriding factor was that of public safety.

The Licensing Officer summarised the report and drew attention to the key issues as set out in detail in the report. He confirmed that although this was an application for a new driver licence for private hire, the applicant had previously had a hackney carriage licence which had been withdrawn. The committee noted the background to this case, including the applicant's conviction on 6 April 2004 at Bristol Crown Court for the rape of a female. The penalty was imprisonment for 46 months and the applicant had to sign the sex offenders register. A DBS showed additional information in relation to the circumstances of the rape offence, it was that of a lone 23 year old female who was in his taxi at the time the offence occurred.

The attention of the committee was drawn to Bristol City Council's policy guidance on the relevance of such a conviction when considering if a licence should be granted. For a hackney carriage licence and a private hire driver licence a period of 15 years should elapse from the date of the conviction. The committee's attention was also drawn to the policy which stated that the overriding concern was the safety of the public. A lone female in a taxi was considered to be a vulnerable person in this context.

The committee was given legal advice that as the applicant had been convicted of an offence, the committee had to take the conviction as evidence of his guilt.

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

- The applicant explained that he would never make the same mistake again and was deeply saddened that as a result of his actions he had lost his livelihood and his family. He had started a new life with a new wife and child and he needed a job to support them.
- He was now much more aware of the fact that if he did anything wrong, he would not be excused and he would be in prison for the rest of his life.
- He explained that he has learnt his lesson and would never go against the law and the policies of the land again.
- The applicant passed over a number of personal references verifying his character to the committee.
- The applicant confirmed that he did not have a Risk Assessment Report to give to the committee. He was advised that this would allow him to bring forward relevant information in relation to the policy obstacle.
- It would be necessary for the applicant to choose his own suitably qualified professional with expertise in the behaviour of offenders and the risk that they posed in the future.
- The objective of the professional risk assessment was to support the application to overcome the policy objection.
- The applicant now understood that he needed a risk assessment and that it would be best to see a solicitor for advice in respect of this.
- The applicant understood that his application had been made before the necessary 15 years had elapsed from the date of the conviction.

Mr Saddiq attended the meeting and provided the applicant with a verbal personal reference. Mr Saddiq explained that the applicant had been employed by him and he had known him for over 15 years. Prior to the conviction, the applicant had a clean record. He explained that the applicant has been out of prison for nearly 10 years and worked voluntarily in a mosque with the children. Mr Saddiq trusted the applicant with his own family, in particular female family members. Mr Saddiq would ask that the applicant be given a second chance as he was battling to get his life back together after the conviction.

The parties withdrew from the room.

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 for the following reasons:

- (1) Members found that there was a trust relationship between a driver and a customer and this had been seriously breached.
- (2) Members felt that he was still nursing a grievance in relation to the conviction.
- (3) The conviction was a very serious sexual offence. The required 15 years has **not** elapsed and the applicant had not said anything that would support a decision to depart from the policy.
- (4) 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.

The parties returned to the room and were advised of the committee's decision.

Resolved:

That the application be refused as the applicant had not convinced the council that he was a fit and appropriate person to hold a PHD licence.

6. Application for the Grant of a Private Hire and Hackney Carriage Driver Licences – SH

The Applicant asked for an adjournment as he was out of the country.

Resolved:

Adjournment was approved.

The following application was taken in open session

7. Application for street trading consent – Mr Kevin Drake

The committee considered an application for the grant of a street trading consent at Maurice Road at the Junction with Norfolk Avenue and outside St Andrews Park, Bristol. The Applicant was present.

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

The Applicant handed out a letter to committee members (a copy of this can be found in the official Minute Book) and circulated some photos of the van. The committee considered the content of the statement and viewed the photos.

The licensing officer then summarised the report and drew attention to the key issues as set out in detail in the report. The application sought permission to trade 11am to 7pm from April to September 7 days a week. It was noted that Mr Drake already held a consent for 11am-6pm 7 days a week but this only covered school holidays and bank holidays.

The licensing officer confirmed that Licensing had undertaken consultation with local businesses (no objections had been received), residents (objections had been received), council departments (no objections had been received). The application was also considered by the Licensing Trading Standards officer and he had recommended refusal.

Below was a summary of the principal points made in support of the application by the applicant:

- The applicant informed the committee that he would like to trade in school holidays from 11am to 6pm and term time from 4pm-7pm.
- He would only trade if the weather permitted and did not want to trade all day, probably only 4.30pm-6pm
- If it was a hot day, he would park the van earlier in the day to save the parking space but would not start selling ice creams until around 2pm
- The Café in St Andrews Park did not sell ice cream, only lollies, so he was not taking their trade
- The van he operated used 0.06% of the allowed pollution limits and there was more air pollution by driving the van around than there was to have it stationary. When it was parked, it was only put on tick-over to keep the battery running.
- There had been no accidents or near accidents in the area
- Other vans used the street as a rat run in the daytime, but they had to slow down to make sure their mirrors did not hit the applicant's vehicle
- The street was in a 20 mph zone

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

- Referring to the letter that the applicant had given to the committee, he commented that the objector worked in the café in St Andrew's Park and stored the fridge/stock in a nearby garage. He believed that the objector did not want any competition for the café in the park
- The objector had also complained about a small camper van parked near the objector's house

- The van was a fairly new Mercedes Sprinter
- The ice cream van did not block the view
- The applicant only sold ice cream, ice lollies, water and slush puppies
- The applicant asked the committee if he could sell coca cola – the legal advisor confirmed that if he wished to vary what was sold, he would need to seek consent from Licensing

The applicant left the room.

Following careful consideration of all the written and verbal evidence presented, it was unanimously agreed that the application should be granted.

Resolved: that the application for the grant of a Street Trading Consent opposite 13 Maurice Road, Bristol, BS6 5BZ between the hours 11.00 to 18.00 Monday to Sunday in school holidays and bank holidays and April to September in term time between 16.00 to 19.00 be granted to Kevin Drake, subject to the General Conditions attached to the Report at Appendix A and subject to the chimes being used only twice per day, and sounding for a maximum of 30 seconds on each occasion.

(The meeting finished at 3pm)

Chair