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Agenda Item No:4

Bristol City Council Minutes of the Public Safety and Protection Committee (Sub-Committee B)

Tuesday 14th July 2015 at 10.45am

Members Present:-

Councillors Hance (part), Langley and Tincknell

Officers in Attendance:-

Legal Advisor, Carl Knights, Sam Mahony

1. Apologies for Absence

Apologies were received from Councillor Stafford-Townsend. Councillor Hance substituted for Councillor Stafford-Townsend.

2. Membership and Election of Chair and Vice Chair

It was noted that the Membership of Sub Committee B would be Councillors Davies, Langley, Morris, Stafford-Townsend and Tincknell

It was agreed that Councillor Tinknell would be Chair for the meeting.

3. Declarations of Interest

None.

4. Sub-Committee Terms of Reference

The Terms and Reference for the Sub Committee were noted.

5. Public Forum

None.

6. 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.

7. 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).

8. Application for the Grant of a Hackney Carriage Driver (HCD) 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 representative Councillor Mark Weston.

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 set out in detail in the report. The Committee advised that they could not consider or challenge the matter already heard by the Courts, they would only consider whether HHD was a fit and proper person for a licence and if there was reason to depart from the Council Policy in this matter.

It was reported that if the Committee found in favour of the applicant, HHD had applied to be exempt from the knowledge test.

Below is a summary of the principal points made in support of the application by Councillor Weston, on behalf of HHD:-

- He had known the applicant a long time and reported that he was a good family man that worked hard in the community. Letters of support from Councillor Weston and Kirk were presented to the Committee.
- HHD held a licence with North Somerset Council and drove for Private Hire company Prestige who operated within Bristol. He had continued to drive without any incidents or problems. A letter from North Somerset Council was presented to the Committee in support of his application.
- Councillor Weston suggested that as Council policy stated that more weight could be given to an application after five years suggested that some weight could be given before five years.
- HHD had the Gold Standard training accreditation, CRB checks from Bristol and North Somerset and a full driving licence (all documents were shown to the Committee). HHD had

already passed the knowledge test when he previously had a licence so had applied for exemption.

The applicant was invited to comment on his court conviction. HHD stated that he would always deny the charge but did recognise that he had been found guilty. In response to a question asking how he would deal with a stressful situation where he could lose his control, HHD responded that he would deal with matters in a friendly way, making a good atmosphere in order to calm any situation.

The applicant confirmed that he was working four to five days a week for Prestige Private Hire. Officers confirmed that for a local authority licence the majority of work should be within the authority that issued the licence however, that would be a matter for the issuing authority.

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 approved.

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.

It was agreed that the applicant would be required to take all tests as outlined by the report, including the knowledge test.

Resolved:-

- (1) The applicant had demonstrated to the Committee that he was a fit and proper person to hold a licence.**
- (2) Members noted his demeanor during the meeting, his clean driving licence and that he had no convictions during the intervening time since the assault, five years ago.**
- (3) Members considered the support of two Councillors and others supporting information.**
- (4) Members considered that to grant a licence would bring HHD under the regulation and monitor of BCC as it was noted he had already been working within the area.**
- (5) It was therefore appropriate to depart from the Policy guidance and grant the licence under section 59 (1) of the Local Government (Miscellaneous Provisions) Act 1976 subject to the fit and proper person test outlined in the report.**

9. Application for the Grant of a Private Hire Vehicle Licence - HYM

(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 (HYM) was in attendance and his vehicle was parked outside.

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 set out in detail in the report. In particular it was explained that HYM was asking the Committee to make an

exception to its Policy as the vehicle is beyond the age limit outlined in the Policy. As part of the Committee's considerations, members inspected the vehicle.

The Committee heard that the car had recently passed the required mechanical condition/roadworthiness and cosmetic test .

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

- He had not been aware of the 10 year old limit for cars and having received the renewal note for his licence had spent money on its MOT.
- He was an experienced taxi driver and had been driving for 15 years.
- He needed time to get the money together for a new car.
- The mileage on the car was 130,000 and it was a diesel car.

Officers confirmed that renewals notices were sent out as anyone is entitled to make an application and there were links to relevant policies within the letter. Reminders were not sent to those with cars approaching 10 years of age. The applicant confirmed he did not have a home computer but would be able to go to the local library to look at further information.

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 approved.

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 Committee noted the low mileage of the diesel Private Hire Vehicle having newly passed its MOT and that it was of good condition.**
- 2) The Committee agreed to grant a period of three months (from the day of issue) in order to enable the applicant to get a new car and reapply.**
- 3) The Committee agreed to depart from the Policy guidance and grant the licence under section 48 of the Local Government (Miscellaneous Provisions) Act 1976.**

10. Application for the renewal of a Hackney Carriage Driver Licence - AUB

(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 (AUB) was present.

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 set out in detail in the report. As part of the Committee's considerations, members were invited to take into account the additional information provided by the applicant.

Below is a summary of the principal points made in support of the application by AUB:-

- AUB had declared that he was subject to a non-molestation order by the family court since 1 October 2014 and his wife had accused him of breaching the order.
- AUB had provided a statement outlining his response to the allegations against him. He accepts that it had happened but maintained it was at the invitation of his wife.
- He had been picking up his son from his wife's mother's house for one day a week access, and his wife had been present at the handover. His wife rang him to stop him seeing his son. As he could not ring or go to her house to discuss, he visited her place of work and handed her a note, without speaking, which asked to see his son. Although it was direct contact it was the only way he could ask to see his son by asking her to contact him.
- Subsequently he had been able to secure an interim order through CAFCAS report to see his son two days a week.

Within the discussion that followed it was confirmed that the primary concern for the Committee was of public safety rather than private matters. There had been no conviction at this point and the case would be heard in September 2015. If the applicant was found not guilty there would be no effect on his licence.

Officers confirmed that the Policy did not state that a non-molestation order was a barrier to a licence, but the Committee could take it into consideration within the fit and proper person test. The breach of a non molestation order however, was a criminal offence.

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 allowed.

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 Committee could not pre-empt the court's decision and nothing had been proven to date.**
- 2) The Committee found that the applicant was fit and proper for the purposes of Section 59(1) of the Local Government (Miscellaneous Provisions) Act 1976.**
- 3) The applicant should inform officers of any changes following legal proceedings.**

11. Application for the Grant of a Street Trading Consent on highway near to Euro Car Parts Site, Eldonwall Trading Estate, Eldon Way - SS

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

The Committee considered an application for the grant of Street Trading Consent. The applicant (SS) was present.

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 set out in detail in the report. As part of the Committee's considerations, members were invited to take into account the trading times of 07.30 to 14.30hours (corrected from report) and seek clarification about the type of food and drinks.

The Committee heard that there had been an objection from Euro Car Parts and another from the Police Beat Manager.

Below is a summary of the principal points made in support of the application by SS:-

- He reported that the staff (including the Assistant Manager) of Euro Car Parts could not see why the head office had objected to the application.
- Photos were provided of the street in question. In response to the Police's suggestion that to have the snack van on the street would displace a car to the other side of the street did not make sense as there were already cars on both sides of the road.
- The van would not be within the estate itself so would not cause any problems with lorries turning etc.
- Food provided would include fresh salad boxes, fruit, jacket potatoes as well as bacon and sausage sandwiches.
- The applicant felt there was a need for such a business on the site. He provided signatures from people who feel the business would be of use as well as a letter from Pride of Bristol Trust.

In response to questions from members of the Committee the following points were clarified:

- Customers would be pedestrians and were unlikely to bring further traffic to the site.
- The vehicle ran on silent petrol and was a few inches wider than a transit van. The vehicle was certificated, decorated and ready for use. It was kept at the applicant's home overnight.
- The applicant had made an arrangement with another business to dispose of his waste. Packaging would be paper and polystyrene plates and plastic cutlery. Most customers would take the products away to their workplace.

The parties withdrew from the room.

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 application for a Street Trading Consent be approved within the hours of 07.30 – 14.30 on weekdays.**
- 2) The Committee encouraged sustainable disposal facilities and packaging.**

- 12. Application to renew a Private Hire Drivers Licence in respect of an applicant who has received a motoring conviction - SA**
(Exempt paragraph 3 - Information relating to a person's financial or business affairs)

The Committee considered an application to renew a Private Hire Drivers Licence. The applicant (SA) was in attendance.

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 set out in detail in the report.

Officers confirmed that on his application form, SA had answered 'none' when asked to declare any convictions or cautions received. Subsequently officers discovered convictions for 'in charge of a vehicle while alcohol level above limit' and 'using a vehicle uninsured against third party risks' from January 2015 at Bristol Magistrates Court (with the offence taking place in July 2014). Officers had also not been aware of a further offence from February 2012.

The Licensing Officer explained that the matter had been adjourned from the meeting on the 9th June 2015 as the Committee had requested evidence from friends with him on the 21 January 2015 to corroborate that his drink was spiked, and evidence from the car company at fault for the non-renewal of insurance.

Below is a summary of the principal points made in support of the application by SA:-

- He confirmed that he had previous convictions for which he had already been before a Committee. It was his understanding that the renewal form had asked if he had been convicted since his last licence renewal, which he filled out on the 1st April and received in June. During that period he had not received any convictions.
- He had been convicted and punished through the court for those offences.
- With regards to the conviction regarding lack of insurance, he had rented his vehicle from a taxi company and they were meant to arrange insurance. A letter from AJ Rentals was presented to the Committee.
- He doesn't drink but had unknowingly been given alcoholic drinks on 28th July before driving his car.
- SA presented the Committee with two references from customers but had not had the time to gather more and had not been able to persuade his friends from the July incident to accompany him.
- He had nearly 16 years' experience of driving a taxi in Bristol and had never been convicted of not having insurance before this incident. He had also never been drunk before as he does not drink. He has now bought and insured his own car so that it cannot happen again. He had been a victim of bad luck for which his family were suffering due to no income.

Officers confirmed the following information;

- a conviction and a caution from 2010 had already been considered by a Committee although the full circumstances of the offence had not been put before the Committee.
- The applicant had been advised of the date of this committee on 29th June, and had been sent the papers by post and email on 6th July.
- The wording on the application form had been altered at least 18 months ago to say 'have you ever had a conviction' rather than 'since your last licence'. It was the duty of the applicant to read the form entirely.

Members asked SA about his conviction for making a false representation. SA could not provide any further information. Members asked about the conviction for 'failure to surrender to custody' and SA explained that was due to an unpaid parking fine which had now been cleared.

The Legal Advisor to the Committee questioned whether parking fines were dealt with by the magistrates court and highlighted that it had been dealt with on the same day as the other charges in January 2015.

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 Committee agreed that it was reasonable cause that the applicant would not be found a fit and proper person on a new application because of his failure to give a full and timely disclosure to the licensing authority and PSP Committee, and in particular due to the number of convictions for serious offences.**
- 2) The Committee agreed that under provisions of the Local Government (Miscellaneous Provisions) Act 1976, section 51 91)(a), that the renewal of the licence be refused along with Council Policy sections (e) and (a)**

At this point in the meeting Councillor Hance left the room.

13. Application for the Grant of a Hackney Carriage Driver (HCD) Licence – JM
(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 (JM) was present and was accompanied by his representatives MM, ZA and SZ.

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 set out in detail in the report. The Committee advised that they could not consider or challenge the matter already heard by the Courts, they would only consider whether JM was a fit and proper person for a licence and if there was reason to depart from the Council Policy in this matter.

Below is a summary of the principal points made in support of the application by the applicant and his representatives;

- He was very sorry for his past actions and he had learnt a lot from the Change Course run by Avon and Somerset constabulary. He had taken responsibility for his actions and offered regret and apologies.

- He was a changed person and had been working within the community and with children through the mosque. He would not let his family, religion, community or pride down.
- The Committee were presented with his driving licence (clean), letters from Pakistan Association Bristol and Bristol Jamia Mosque. Letters of support including from his wife and a petition in support of his application signed my members of the community.
- ZA highlighted that since working from 2010 until he lost his licence there had been no complaints about him.
- MM explained that at a mosque meeting JM had apologised and was given a second chance.

The applicant was invited to comment on the caution he had previously disputed. SZ explained that due to the language barrier he had not understood the caution was a conviction as he thought it was a warning.

The applicant was invited to comment on what he had learnt from the Change Course. JM explained that the information he was given about the possible effects on his family had changed him. He would not drive anyone to that area now and would advise others against going there. He understood why the Committee had to take it very seriously.

It was reported that if the Committee found in favour of the applicant, JM had applied to be exempt from the knowledge test and from the Gold Standard Test.

The Legal Advisor explained to the Committee that the last application made was July 2013 for which the 2012 caution had been declared. The matters listed in the report from 2001 – 2008 had been considered previously by Committee and the applicant had been found a fit and proper person. The incident in 2007 had not been known at that time. The policy allowed between 5 and 15 years refusal for the offence of solicitation.

The applicants representatives summed up and then all 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 approved.

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) In relation to the convictions disclosed the Committee found JM to be rehabilitated for the purposes of section 59(1) of the Local Government (Miscellaneous Provisions) Act 1976 and that bearing in mind those matters he was a fit and proper person.**
- (2) If there was any conduct of concern he would be brought again before the Committee.**
- (3) The applicant would be required to take all tests as outlined by the report, apart from the knowledge test from which he was exempt.**

CHAIR

(The meeting ended at 4.45pm)