

BRISTOL CITY COUNCIL

**MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 29TH MARCH 2011 AT 10.00 A.M.**

P Councillor Chris Davies
P Councillor Alf Havvock
P Councillor Jeff Lovell
A Councillor David Morris
P Councillor Guy Poultney (in the Chair)

PSP

173.3/11 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Morris.

PSP

174.3/11 DECLARATIONS OF INTEREST

No further declarations of interest were received.

PSP

175.3/11 PUBLIC FORUM

Nothing was received.

PSP

**176.3/11 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

**177.3/11 APPLICATION FOR THE GRANT OF A STREET TRADING
CONSENT AT THE PAVEMENT AREA OUTSIDE 100 TEMPLE
STREET, BRISTOL
APPLICANT: MR. ROBERT WARREN (RW)
PROPOSED TRADING NAME: FOOD WARREN**

The Sub-Committee considered a report of the Director of Neighbourhoods (Agenda Item No. 5) determining an application for the grant of a Street Trading Consent at the following location: Pavement Area Outside 100 Temple Street, Bristol.

RW was in attendance, accompanied by his sister CW.

Also in attendance were Interested Parties representing KPMG, the Landlord's of 100 Victoria Street and CAPITA.

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

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

RW tabled a statement (a copy of which is contained in the Minute Book), summarised it and answered questions highlighting the following:

- They will not be selling burgers or chips, etc., instead it will be freshly cooked homemade foods such as soups, stews, curries, salads, and soft drinks, etc. as well as breakfasts and lunches. The hours of trade will be 06:30 hours to 15:00 hours from Monday to Friday.
- They will be buying all of the produce locally and will be using recyclable packaging; a bin will also be provided
- In respect of concerns relating noise or smells, the proposed location is not near anyone, they do not intend to fry food and the position of the trailer is next to a noisy main road
- They have already begun deliveries to offices and built up a customer base therefore demonstrating that there is a market for their products

- They are willing to comply with Highways Requirements
- There are not many other food outlets in the immediate vicinity and they are hoping to attract office workers as customers especially from those companies which do not have their own catering facilities
- They will drive the trailer over the footway to get it into position and it will be left on site overnight; they consider the footway wide enough to accommodate the trailer and it will have a wheel clamp and hitch lock for security purposes; they have already bought the trailer

The Representative of KPMG made a statement and answered questions highlighting the following:

- They have concerns about the image that the sight of a food trailer would present to their clients visiting their offices
- They have in house catering
- They are concerned that smells from the cooking will find their way into their building even though the building is fitted with air filters; they already experience traffic fumes coming into the building
- Rodents are a problem in the area
- They feel that there are alternative locations for the trailer; there are already a number of other food outlets in the area. He explained that units are hard to let, , the proposed location of the trailer is not suitable given it's close proximity to the premises, he had expressed concerns about traffic impact as there is nowhere to park cars

The Representative of the Landlord's of 100 Victoria Street stated that the location was not suitable and that there are concerns about access as his clients own a lot of the land in the area.

RW summed up his case.

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

RESOLVED - that a decision on this application be deferred pending a site visit by the Members of the Committee.

PSP

178.3/11

**APPLICATION FOR THE GRANT OF A STREET TRADING CONSENT AT GOODNESTON ROAD, BRISTOL BS16 3JX
APPLICANT: YUSUF YILDRIM (YS)
PROPOSED TRADING NAME: BABS N WRAPS**

The Sub-Committee considered a report of the Director of Neighbourhoods (Agenda Item No. 6) determining an application for the grant of a Street Trading Consent at the following location: Goodneston Road, Bristol BS16 3JX.

YS was in attendance, accompanied by his wife.

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

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

YS and his wife then made their case and answered questions highlighting the following:

- The proposed location of the trailer will not cause anyone any problems or obstructions
- They live in the area
- The site is adjacent to Fishponds Road where there are a number of supermarkets, pubs and a car sales business so there are a lot of potential customers

- There are no houses nearby but they will have filters to keep smells to minimum
- They will be selling breakfast, lunches and burgers etc. and the days of trading should read Monday to Sunday from 07:00 hours to 15:00 hours.
- They bought the trailer 8 months ago
- YS has been in the food business for 17 years
- They summed up their case

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

RESOLVED - that the application for a Street Trading Consent be granted to Yusuf Yildirim for a stationary van or vehicle positioned at the location marked on the plan attached to the application at Goodneston Road to trade between the hours of 07:00 hours to 15:00 hours from Monday to Sunday . The Consent shall be subject to the following conditions:-

The General Conditions numbered 1 to 19 detailed in Appendix A to the Council's Street Trading Policy.

SP

179.3/11

**APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE VEHICLE LICENCE WHICH DOES NOT COMPLY WITH THE CURRENT COLOUR POLICIES
APPLICANT: IRA CLARK**

The Licensing Officer advised Members that he had received a

request from the applicant for a deferral of consideration of the application as he is unable to attend the Meeting

Members agreed to this request and it was

RESOLVED - that consideration of this application be deferred until a later Meeting of the Committee.

PSP

180.3/11

EXCLUSION OF PRESS AND PUBLIC

RESOLVED - that under Section 100(A) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended.

PSP

181.3/11

APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - SA

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

The Sub-Committee considered an exempt report of the Director of Neighbourhoods (Agenda Item Mo. 9) considering the grant of a Private Hire Driver's Licence.

SA was in attendance, accompanied by his wife.

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

The Licensing Officer explained to SA that SA could make representations to the Committee as to why they should not consider the caution as relevant to the application when considering his application for a PHDL..

SA stated that he wanted to explain to the Members the circumstances of the caution and explained it related to an incident

that took place at Phoenix Court; he had waited 45 minutes to see someone and did not feel that the woman saw understood him so he had asked to see someone else; he had been told he would have to queue again; he had not been happy about this and made his feelings clear; he had then been removed from the building by a security officer who had grabbed him by the neck and ejected him out of the premises in front of other customers and his heavily pregnant wife; he was angry about this; the next day he was asked to attend Trinity Road Police Station and had accepted a Caution; he now wished that he had gone to the Police himself as the outcome would have been different and the CCTV footage would have supported his version of events.

The Licensing Officer introduced the report and summarised it for everyone. He explained that following the Caution issued on 15th July 2010 SA had been found guilty of a breach of the order imposed on him on 17th August 2010 by Bristol Magistrates on 6th January 2011.

SA then presented his case and answered questions highlighting the following:

- He tabled a number of references from the GP, HV and one from his Probation Officer supporting his application who had stated that in his opinion SA was not a threat to the public
- He also tabled a letter from his sister expressing concerns for him; highlighting his financial difficulties; the incident had not been deliberate on his part; she had not wanted to pursue action against him but had been pressurised into doing so; she supported his application
- He had been unemployed for 9 months and this had been very difficult for himself and his family; it had also led to problems for his wife during her pregnancy; he now has 4 children to support, he was in a financial crisis, behind on his bills, his whole family had been affected by his inability to find employment
- SA requested a chance to rebuild his and his family's life
- He had now nearly completed his community service

- The incident with his sister had been out of character but his family had been very supportive and he has been relying on his family for financial support
- His mother is very worried about him even though she has terminal cancer; she wants her body returned to Pakistan but if he cannot find work he will be unable to accompany it
- Taxi driving is the only occupation that he has done; his father and brother are also taxi drivers
- The incident involving his sister had occurred when he was getting dressed and they had been arguing; she had pushed him and he accidentally hit her with his belt; he had asked his daughter to call an ambulance and the Police had also attended; she was angry when she gave a statement to the Police
- In relation to the incident at Phoenix Court, he had felt under pressure to accept a Caution; he may have used threatening words directed at the security officer after he was ejected from the building; however he did not feel that the Police had listened to his version of events and he did not accept the version put forward by the security officer, although he could not remember exactly what he (SA) had said
- He had sold his car but if he was granted a license he would be able to rent one from one of the taxi companies
- There had been a delay in obtaining a CRB check because he had lost his passport and had then not been able to afford the fee; when he had the fee he had been allowed to use his DVLA license as a supporting document
- SA explained that he had received a letter from the LO that his license was up for renewal. He had made an appointment to renew his license. At the appointment he was told that he had to make a fresh application.

The Licensing Officer clarified the following:

- SA had come into the Licensing Office on 7th July 2010 and

had been advised that his application would be treated as a new application rather than a renewal as his license had expired on 30/06/10;

- The LO explained that when SA completed the application form he had incorrectly entered the sentence details of the Battery charge.
- SA was requested to submit a new CRB check . SA explained that he could not afford the fee and asked the LO to waive it. The LO refused.
- SA explained that there was a delay in requesting the CRB check as he had to save up for the fee.
- The CRB check was done in 11/10 and returned in 01/11. It was incorrect repeating the same details that SA had given on his application initially.
- The LO then applied for a CRB check on or around 01/03/11.

SA summed up his case and stated that he deeply regretted his actions and that he would not do anything like it again. He just wants to improve his life and provide for his family.

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

Details of the Committee's findings and reasons for the decision are set out in Appendix 3.

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

RESOLVED - that notwithstanding these convictions SA is a fit and proper person to hold a PHDL.

**PSP
182.3/11**

RECENT MAGISTRATES' COURT CONVICTION - HOLDER OF PRIVATE HIRE DRIVER'S LICENCE AND APPLICANT FOR HACKNEY DRIVER'S LICENCE - AS

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

The Sub-Committee considered an exempt report of the Director of Neighbourhoods (Agenda Item No. 10) to determine whether action is necessary against AS, the holder of a Private Hire Driver's

Licence following a recent court conviction. The Sub-Committee also considered whether to grant AS's application for a Hackney Driver's Licence.

AS was in attendance, accompanied by a friend.

AS confirmed that he understood enough English to not need an independent interpreter to be present.

The Representative of the Service Director, Legal Services provided Policy Advice.

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

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

AS then made oral representations to the Sub-Committee and answered questions highlighting the following:

- He had been convicted of the offence but did not want to lose his licence
- He knew that he had been wrong to pick up the men but had been frightened
- He had just dropped off some passengers outside Piccolino's and had been approached by the undercover officers. They asked him if he was free and he had said "yes"
- On a previous occasion at Temple Meads when he told some passengers he could not pick them up because he was a Private Hire Driver, they jumped in his car and had attacked him
- He referred to the term "flying" several times and told the committee that it was not something he would usually do. He confirmed that he understood what the term meant
- He was fearful the same thing would happen to him on this occasion so he allowed the men to get into his car and took them to the Novotel; he was also concerned that if he did not

take them they would damage his car

- He was fully aware that Private Hire Driver's were not allowed to pick up passengers who had not pre-booked

The Licensing Officer read out to the Sub-Committee part of statement used in court which made it clear that the men did not pressurise or attempt to intimidate AS into taking them to the Novotel.

- AS confirmed to the Sub-Committee that the passengers had approached him in accordance with the statement used in the criminal proceedings
- As said that some people don't know the difference between private hire and hackney carriage vehicles; the undercover officers were a bit rude to him so he had said he was free; he knew it was not legal to take them

AS summed up his case.

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

Details of the Committee's findings and reasons for the decision are set out in Appendix 4.

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

RESOLVED - (i) that the Private Hire Driver's License held by AS be suspended for six months on the grounds contained in section 61(1)(a)(ii) of the Local Government (Miscellaneous Provisions) Act 1976 in that AS had been convicted of an offence under the Town Police Clauses Act 1847 and section 61(1)(b) of the 1976 Act, namely "any other reasonable cause"; and

(ii) that the application by AS for a Hackney Carriage Driver's Licence 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 was a fit and proper person to hold such a licence.

PSP

183.3/11

APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - APPLICANT GS

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

The Sub-Committee considered an exempt report of the Director of Neighbourhoods (Agenda Item No. 11) to decide upon an application for the grant of Private Hire Driver's Licence.

GS was in attendance.

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

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

AS then made representations in support of his application and answered questions highlighting the following:

- The incident in respect of which he had been convicted had occurred on a celebratory day; he had met some friends for a drink - he had only drunk one alcoholic drink; unfortunately it was a high strength lager; he didn't drink at all usually.
- He had been stopped by the Police and found to be just over the legal limit; he had completed a course
- The police had randomly pulled him over. It was nothing to do with his manner of driving
- His family has a business that involves him in driving
- He produced good character references and reminded Members that he received no other penalty points on his licence

- He was a hard working individual who worked 7 days per week
- This is his first application to be a taxi driver. He had wanted to apply earlier but had delayed doing so because he was aware of the Council's policy on convictions
- He deeply regrets what happened and will never do anything like it again. It was a very silly mistake
- He was a very careful driver. He very much wanted to become a private hire driver and wished to take the next step forward. He had already booked his knowledge test
- He summed up his case

GS produced his DVLA licence to the Sub-Committee which only showed the conviction in question. He had no other endorsements on his licence.

The Representative of the Service Director, Legal Services provided Policy Advice.

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

Details of the Committee's findings and reasons for the decision are set out in Appendix 5.

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

RESOLVED - that the application by GS for a Private Hire Driver's Licence be granted, subject to him passing all other elements of the Fit and Proper Person Test.

PSP

184.3/11

APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - APPLICANT DRC

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

The Sub-Committee considered an exempt report of the Director of Neighbourhoods (Agenda Item No. 12) to determine an application for the grant of a Private Hire Driver's Licence.

DRC was in attendance accompanied by a Character Witness.

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

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

DRC then made representations in support of his application and answered questions highlighting the following:

- DRC first thanked the Members for taking the time to hear his application today
- Since the conviction he has found it very difficult to find employment but has established and run a number of businesses of his own including car valeting and a sandwich bar
- His businesses had involved driving due to deliveries
- He had a motorbike accident and had to give up work for a while
- He enjoyed driving and would like to work as a taxi driver
- He is a family man with adult children and likes to work hard. He wanted to prove to everyone that he had positively turned his life around
- The conviction was his first offence; he was carrying half a kilo of drugs for which he had been paid £200; he had spent two years in prison and was very remorseful
- He had never been involved in drugs before or since. He had made a bad choice. The incident had left him totally devastated

- He had no other convictions. His DVLA licence was clean

DRC's Character Witness then made a statement – he believed in DRC who was very honest and has integrity; he has a great deal of trust in DRC whom he regards as a trusted friend; DRC has learned from his mistake.

DRC summed up his case.

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

Details of the Committee's findings and reasons for the decision are set out in Appendix 6.

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

RESOLVED - that the application by DRC for a Private Hire Driver's Licence be granted, subject to him passing all other elements of the Fit and Proper Person Test.

PSP

185.3/11

RECENT ARREST - SMB

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

The Sub-Committee considered an exempt report of the Director of Neighbourhoods (Agenda Item No. 13) to determine whether any action is required as a result of recent information received from the Avon and Somerset Constabulary.

SMB was in attendance.

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

The Licensing Officer informed the Sub-Committee that a faxed letter had been received from the solicitors representing SMB requesting that either consideration of the matter be deferred until

the end of the criminal proceedings, or that at least consideration of the matter be deferred until SMB can be represented.

SMB confirmed that he would like consideration of the matter to be deferred until he could be represented. He had contacted his solicitors the previous Thursday or Friday as soon as he received notice of the Meeting.

The Licensing Officer advised Members that the papers had been delivered to SMB's house on 22nd March 2011.

All parties and the representatives of the Director of Neighbourhoods left the room whilst the Committee decided whether or not it would agree SMB's request for an adjournment until he could be represented or proceed with consideration of the matter.

Details of the Committee's findings and reasons for the decision are set out in Appendix 7.

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

The Chair advised SMB that the Committee had carefully considered his request for an adjournment but resolved that in view of the seriousness of the offence for which SMB had been charged, the Council's overriding duty was to protect members of the public who are entitled to expect the Council to afford high priority in dealing with such issues without delay. The Members were also concerned that SMB had obtained renewal of his Hackney Carriage Driver's Licence on 20 January 2011 as a result of putting misleading information on his application form upon which he had failed to disclose that there were pending court proceedings against him. Had the Council been aware that SMB had been charged with a serious offence at the beginning of December 2010, the matter would have been brought before Committee much sooner. As it so happened, the Council did not receive notification of the alleged incident via the Police until a few weeks before this hearing and therefore today's date was the earliest that a Committee could be convened to hear the matter. The Members also considered that SMB had been given sufficient notice of the hearing and in consequence were not prepared to

further delay consideration of such a serious matter.

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

DRC then made representations and answered questions highlighting the following:

- Referring to paragraph 6 of the report, he thought that the question related to a conviction and had misunderstood the application form
- He was not arrested and had gone to the Police Station himself
- The passengers he had picked up had been rude, racist and would not pay the fare; one of them had fallen in the road as she was so drunk
- The reason for the delay between the alleged offence and the arrest was because he had separated from his wife and was living with his sister but he had not changed the address on his DVLA License
- He is a very responsible person and has never been in any trouble before; he is always courteous and polite; if he loses his license he will not be able to work
- He completely denied the allegations against him
- He summed up his case

All parties and the representatives of the Director of Neighbourhoods left the room whilst the Committee decided whether or not to take any action in relation to the Hackney Carriage Driver's Licence held by SMB.

Details of the Committee's findings and reasons for the decision are set out in Appendix 7.

All parties and the representatives of the Director of Neighbourhoods returned to the room to hear the decision of the

Committee.

RESOLVED -

(i) that there was “reasonable cause” to suspend the Hackney Carriage Driver’s Licence held by SMB on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976;

(ii) that the interests of public safety require the suspension to have immediate effect on the ground contained in section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 as SMB had been charged with a serious criminal offence; and

(iii) that the suspension shall remain in force until midnight on the first suitable date that the matter can be brought back before the Committee following conclusion of the criminal case.

INFORMATION ITEM

PSP

186.3/11 DATE OF NEXT MEETING

RESOLVED - that the next meeting will be held on Tuesday 19th April 2011 at 10.00 a.m.

(The meeting ended at 4.10 pm.)

CHAIR

BRISTOL CITY COUNCIL

**MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 29th MARCH 2011**

PSP

177.3/11

Agenda Item No: 5

Agenda title:

**APPLICATION FOR THE GRANT OF A STREET TRADING
CONSENT AT THE PAVEMENT AREA OUTSIDE 100 TEMPLE
STREET, BRISTOL**

APPLICANT: MR. ROBERT WARREN (RW)

PROPOSED TRADING NAME: FOOD WARREN

Decision

That a decision on this application be deferred pending a site visit by the Members of the Committee.

Reasons for Decision

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

Members were unanimous that they could not properly determine the Members therefore decided to defer a decision on the application pending them visiting the site.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 29th MARCH 2011**

PSP

178.3/11

Agenda Item No: 6

Agenda title:

**APPLICATION FOR THE GRANT OF A STREET TRADING
CONSENT AT GOODNESTON ROAD, BRISTOL BS16 3JX**

APPLICANT: YUSUF YILDRIM (YS)

PROPOSED TRADING NAME: BABS N WRAPS

Decision

That the application for a Street Trading Consent by Yusuf Yildirim at Goodneston Road be granted subject to the Conditions at Appendix A of the Report.

Reasons for Decision

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

Members noted the proposed location of the trailer, that there are no objections from Highways and that only 1 objection from a resident had been received. Having carefully considered the objections of the resident and the representations from the applicant and his wife

Members were unanimous that they could grant the Street Trading Consent.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 29th MARCH 2011**

PSP

181.3/11

Agenda Item No: 9

Agenda title:

**APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER
LICENCE - SA**

Finding of Fact

1. SA found guilty of Battery on 6th July 2010 and sentenced on 17th August 2010.
2. SA accepted a Caution on 15th July 2010.
3. SA found guilty of breach of order imposed on 17th August 2010 on 6th January 2011.

Decision

That notwithstanding the convictions SA is a fit and proper person to hold a PHDL.

Reasons for Decision

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

Whilst noting with concern the incidents involving his sister and the one that occurred at Phoenix Court, Members noted that neither had occurred whilst he was working as a taxi driver and that these incidents were out of character given his long untarnished record as a taxis driver with BCC. They also noted that he deeply regretted both incidents and was very ashamed. They also noted the references he had produced in support of his application.

They therefore decided on this occasion to set aside their Policy and resolve that notwithstanding his convictions SA is a fit and proper person to hold a PHDL.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 29th MARCH 2011**

PSP

182.3/11

Agenda Item No: 10

Agenda title:

**RECENT MAGISTRATES' COURT CONVICTION - HOLDER OF
PRIVATE HIRE DRIVER'S LICENCE AND APPLICANT FOR
HACKNEY DRIVER'S LICENCE - AS**

Finding of Fact

- AS had been convicted of illegal plying for hire and having no insurance in Bristol Magistrates' Court on 2nd December 2010.
- Applying the Council's policy on criminal behaviour there were grounds to suspend his Private Hire Driver's Licence
- On a balance of probabilities, AS had not satisfied the Council that he was a fit and proper person to hold a Hackney Carriage Driver's Licence

Decision

- (i) That the Private Hire Driver's Licence held by AS be suspended for six months on the grounds contained in section 61(1)(a)(ii) of the Local Government (Miscellaneous Provisions) Act 1976 in that he had been convicted of an offence under the Town Police Clauses Act 1847 and section 61(1)(b) of the 1976 Act, namely "any other reasonable cause".

(ii)

That the application by AS for a Hackney Carriage Driver's Licence 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 was 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.

AS had been convicted of the offences of plying for hire and no insurance, which is a widespread problem within the private hire trade in Bristol. The Council takes a very dim view when private hire driver's breach the law in this way because not only does it place the public at risk but it also deprives properly licensed hackney carriage driver's of their lawful trade.

AS was clearly aware that what he had done was wrong – and had been so aware at the time he committed the offences. It was also clear that he was very familiar with the term “flying” which is commonly used within the trade to describe the practice whereby private hire driver's unlawfully pick up passengers who have not pre-booked the fare.

Having regard to the Council's policy on criminal behaviour, the usual starting point would be to suspend the licence for a period of 6 months where a driver has been convicted of an offence under the Town Police Clauses Act 1847. Similarly, the offence of having no insurance is classed as a major traffic offence under the Policy which also normally requires a period of at least 6 months free of conviction.

In AS's case, the Members did not consider that he had put forward any strong mitigating circumstances or any evidence to persuade them that he should be treated as an exception to the policy. The Members did not consider AS's explanation that he had felt threatened at the material time to be credible. It was clear from the evidence that the undercover officers had approached his vehicle in an entirely passive manner and that AS had agreed to transport them without hesitation and had done so for a fare. The officers had not attempted to persuade AS to transport them and nor had they placed any pressure upon him.

The Members therefore considered that a period of suspension of 6 months in respect of AS's Private Hire Driver's licence was a consistent and proportionate response in the circumstances.

Due to AS's flagrant breach of the law and his licence conditions, the Sub-Committee could not be satisfied, at this time, that he was a fit and proper person to hold a Hackney Carriage Driver's Licence. His application would therefore be refused.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 29th MARCH 2011**

PSP**183.3/11****Agenda Item No: 11****Agenda title:**

**APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S
LICENCE - APPLICANT GS**

Finding of Fact

- GS had been convicted of driving a motor vehicle with excess alcohol in Bristol Magistrates' Court on 20 November 2007.
- On a balance of probabilities, GS had satisfied the Sub-Committee that his conviction would not debar him from being granted a licence. However, he could not be granted a licence today as he was still required to pass the other elements of the fit and proper person test, e.g the knowledge test

Decision

That the application by GS for a Private Hire Driver's Licence be granted, subject to him passing all other elements of the Fit and Proper Person Test.

Reasons for Decision

Members were mindful that in considering this application, their starting point was to apply the Council's policy on criminal behaviour which in respect of drink driving offences usually required a period of at least 5 years free of conviction following restoration of the DVLA licence. In GS's case his conviction would not fall outside the policy until 20 August 2013 at the earliest. The Members had to therefore consider very carefully whether GS had presented sufficient evidence to them to persuade them that he should be treated as an exception to the policy.

The Members accepted that this was an isolated incident and that GS was usually a very careful competent driver and a man of good character. He had produced good character references, had not received any penalty points on his licence other than the conviction in question and he had taken the required course. He was also very

remorseful about what had happened and did not usually drink alcohol. He was very unlucky on the occasion in question.

It was therefore decided that in the individual circumstances of GS's case, his conviction should not debar him from being granted a licence. However, this was subject to him passing all other elements of the fit and proper person test. GS could therefore be treated as an exception to the Policy without undermining it.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 29th MARCH 2011**

PSP**184.3/11****Agenda Item No: 12****Agenda title:****APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - APPLICANT DRC****Finding of Fact**

- DRC was had been convicted in Swindon Crown Court in June 2001 of Possessing a Controlled Drug With Intent to Supply in respect of which he had received a sentence of imprisonment.
- On a balance of probabilities, DRC's conviction should not debar him from being granted a Private Hire Driver's Licence subject to him passing all other elements of the fit and proper person test

Decision

That the application by DRC for a Private Hire Driver's Licence be granted, subject to him passing all other elements of the Fit and Proper Person Test.

Reasons for Decision

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

The starting point in respect of criminal convictions would be to consider the Council's policy on criminal behaviour which guides the Council's decision making process as to the fit and proper person test. In the case of drug related offences the policy usually requires a period of at least 5 years free of conviction before an application will be entertained.

Although DRC was given a four year sentence of imprisonment, he was released in 2003. He had therefore remained conviction free for 8 years and his conviction was almost 10 years old. However, the age of the conviction did not mean to say that DRC would have to be granted a licence. The statutory test is that the Council must be satisfied that the applicant is a "fit and proper person" to hold a licence – the burden

of proof lying with the individual applicant. There is no presumption in law that any applicant satisfies that test.

In DRC's case, the offending conduct was clearly at the most serious end of the scale which was reflected by the sentence of imprisonment that had been handed down by the Court. However, the Members accepted DRC's explanation that this was truly an isolated incident whereby he had made a terrible mistake which he had dearly paid for. DRC was

extremely remorseful and had positively turned his life around. He presented himself to the Sub-Committee as a very articulate and hard working individual. The Members were therefore satisfied that he was a reformed character who should be given a second chance. They also attached weight to the statement from the Character Witness who was very credible.

The Members therefore decided that DRC's conviction should not prevent him from obtaining a Private Hire Driver's Licence subject to him passing the other parts of the Fit and Proper Person Test.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 29th MARCH 2011**

PSP**185.3/11****Agenda Item No: 13****Agenda title:****RECEN ARREST - SMB****Finding of Fact**

SMB had been arrested and charged with a serious criminal offence and he had failed to disclose this information to the Council. In consequence there was “reasonable cause” to suspend his Hackney Carriage Driver’s Licence with immediate effect in the interests of public safety.

Decision

- (i) That there was “reasonable cause” to suspend the Hackney Carriage Driver’s Licence of SMB on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976
- (ii) The interests of public safety require the suspension to have immediate effect on the ground contained in section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 as SMB had been charged with a serious offence
- (iii) The suspension shall remain in force until midnight on the first suitable date that the matter can be brought back before the Committee following conclusion of the criminal matter

Reasons for Decision

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

Information had been received via the police that SMB had been charged with a serious offence of robbery. The alleged incident had occurred whilst SMB was working as a Hackney Carriage Driver.

The Members were extremely concerned about this and that SMB appeared to have deliberately concealed this information from the Council when he had applied to renew his Hackney Carriage Driver’s Licence in January 2011.

The Members were mindful of the fact that every man is innocent until proven guilty and it was not their role to second-guess the outcome of the criminal case. The main function of the Committee was a regulatory one where protection of the public was the primary concern. Due to the seriousness of the charge and the fact that the allegation arose whilst SMB was working as a Hackney Carriage Driver, they considered that in the interests of public safety his license should be suspended with immediate effect until the conclusion of the criminal case.

The false information included on his application form was an aggravating feature.

Chair's Signature