

BRISTOL CITY COUNCIL

**MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 11TH SEPTEMBER 2012 AT 10.00 A.M.**

P Councillor Fi Hance (for Cllr Leaman)
P Councillor Alf Havvock (part)
P Councillor Mike Langley
A Councillor Tim Leaman

PSP

57.9/12 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Leaman, substitute Councillor Hance.

PSP

58.9/12 DECLARATIONS OF INTEREST

None were received.

PSP

59.9/12 PUBLIC FORUM

Nothing was received.

PSP

**60.9/12 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

61.9/12 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 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

62.9/12

COMPLAINT OF OFFENDING CONDUCT BY PRIVATE HIRE DRIVER LICENCE: RH

(Exempt 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. 6) considering whether action is necessary in respect of the Private Hire Driver’s licence held by RH.

RH was not in attendance.

The Licensing Enforcement Officer explained that RH had been invited to attend the Committee Meeting on 31st July 2012 but had failed to do so. The Members therefore granted him a deferment until this Meeting. A letter inviting to this Meeting had been hand delivered to him on 9th August 2012 but he had not responded. Members therefore decided that given the nature of the matters outlined in the report, it would not be in the public interest to further delay consideration of them. They would therefore hear his case in his absence.

The Licensing Enforcement Officer introduced the report and summarised it for everyone. In response to questions from Members he explained that he (RH) was seen behind the Watershed he had been parked on the opposite side of the road to the Hackney Carriage Rank and has been issued with a replacement plate for a fee.

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 Private Hire Driver's Licence held by RH be revoked on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 namely "any other reasonable cause" as the Council could no longer be satisfied that he was a fit and proper person to hold such a licence.

THE FOLLOWING ITEM WAS HELD IN OPEN (NON-EXEMPT) SESSION

(Councillor Havvock joined the Meeting at this stage.)

**PSP
63.9/12**

**APPLICATION FOR THE GRANT OF STREET TRADING
CONSENT AT FORECOURT OF 189 HIGHRIDGE GREEN,
BRISTOL
APPLICANT: YENER OLGUN
PROPOSED TRADING NAME: GEORGE'S SNACKS**

The Sub-Committee considered a report of the Director of Neighbourhoods (Agenda Item No. 7) determining an application for the grant of a Street Trading Consent at the following location: Forecourt of 189 Highridge Green, Bristol.

The applicant was in attendance, accompanied by an interpreter, a friend and a customer.

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 presented his application and answered questions highlighting the following:

- He tabled references
- The site is cheaper than one he occupied previously and he wanted to continue to trade in the area; he explained to members where he intended to site his unit
- He has experience of dealing with difficult people
- He has addressed all of the issues raised by the Interested Parties
- He would not encourage youths to hang around but would not envisage that happening in any event
- The area was due to have a ring road running through it in the future
- He had always removed his litter from the previous location and would continue to do this
- He would not be using an electrical generator to power the unit
- The location was ideal as it was far enough away from residential properties and could accommodate customer parking
- He expects local people to use his business - he is well known in the area; they will buy their food and leave the location; he does expect people to congregate - there should not therefore be any problems in relation to the unit being near a busy junction
- He had never experienced complaints when running his business from the previous location. There was no littering, pollution or nuisance
- He had obtained the consent of the owner of the land in question to site his trading unit there
- He simply wanted the chance to run his business as before

The customer stated the applicant's former location was in a pub car park, but this is now a food outlet; the applicant always picks

up his litter; the applicant never had any complaints; and will receive power from the garage rather than use a generator.

The friend stated that the applicant will manage the business properly; will collect all rubbish; and has proved how well he operates at his previous location.

The applicant summed up his case.

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 Street Trading Consent on the forecourt of 189 Highridge Green, Bristol, between the hours of 1700 and 2300 Mondays to Saturdays and 1700 to 2200 Sundays be granted to Yener Olgun, subject to the General Conditions attached to the Report at Appendix A. Condition 18 shall be modified so that it reads "The consent holder shall not cause any nuisance or annoyance to persons using the street or to any other premises within the vicinity". An additional condition shall be applied whereby no electrical generator shall be used in connection with the business/use of the trading unit.

PSP

64.9/12

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 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
65.9/12**

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

(Exempt 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. 9) considering an application for the grant of a Hackney Carriage Vehicle licence which seeks a departure from Council policy.

The applicant was in attendance.

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

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

MA stated that he had not been able to obtain documentary proof that the vehicle is now Bristol Blue as the company that re-sprayed it is no longer trading.

The Members then went outside the building to inspect the vehicle. An approved Bristol Blue vehicle was also displayed for comparison purposes.

MA then presented his application and answered questions highlighting the following:

- Although the car is over 10 years old it has always been maintained and serviced properly and was in good condition
- The mileage was about 82,650
- In January 2011 he was disqualified from driving for 3 months
- When he approached the Licensing Office he was advised that his Hackney Carriage Driver’s Licence would not be restored for

a period of 12 months from the restoration of his DVLA Licence

- After his vehicle licence expired in March 2011 he claimed that he was given verbal assurance by a Licensing Officer that he would be able to apply for the vehicle licence to be renewed
- When he applied for the vehicle licence to be renewed he was advised that the application would have to be determined by the PSP Committee
- He was not aware that renewal would not be automatic and had he known he would have made other arrangements
- He confirmed that his driver's licence has been restored
- He is renting a Hackney Carriage Vehicle at present
- He was in financial difficulty
- He summed up his case

The Licensing Officer stated that he had checked the file and could find no record of MA being advised that he would be able to renew his vehicle licence once his driver's licence was restored. MA would have been advised to keep the vehicle licensed continuously.

The Representative of the Service Director, Legal Services confirmed that as the vehicle licence had lapsed, Members must treat this application as a new one. As the vehicle did not conform with Council policy, the burden of proof was on the individual applicant to satisfy the Members that an exception to the policy should be made in his case.

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 3.

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 be refused.

**PSP
66.9/12**

**REPORT OF INFORMATION RECEIVED ON AN ENHANCED
CRIMINAL RECORD BUREAU CERTIFICATE RELATING TO
THE HOLDER OF A HACKNEY CARRIAGE DRIVER'S LICENCE
- IH**

(Exempt 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) determining if any action is required as a result of information received on an Enhanced Criminal Record Bureau Certificate (Disclosure).

IH 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.

IH's wife then put his case and answered questions highlighting the following:

- He was not aware these incidents would show up on his CRB check
- In relation to the first incident, he had not been aware of any problem until arrested by the Police; he had engaged a solicitor for the court case; he denied the allegations and the case was dismissed because the witness did not appear
- In relation to the second incident, he admitted that he pushed the other man because the other man was acting very aggressively towards him; the apology was agreed
- In relation to the third incident, the students had been shouting abuse at him; he was not arrested and no action was taken against him

- He did not realise that these were matters that would have to be disclosed to the Licensing Department when no further action was taken in respect of them
- He is a good man who is not violent
- She summed up his case

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 4.

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 no action be taken on this occasion.

**PSP
67.9/12**

APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER LICENCE – HDD

(Exempt 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) considering an application for the grant of a Hackney Carriage Driver (HCD) Licence.

HDD 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.

The Representative of the Service Director, Legal Services advised that the applicant must satisfy the Council that he is a fit and proper person to hold the type of licence applied for. The Council's Policy on criminal behaviour states that an application will normally be refused in relation to a conviction for Common Assault until a

period of at least 5 years free of conviction has elapsed. The applicant must therefore satisfy the Members, on a balance of probabilities, to make an exception to their policy in his case. The Committee cannot go behind the conviction, although Members can take account of evidence of good character or mitigating circumstances relating to the conviction.

HDD then presented his application and answered questions highlighting the following:

- He considered that he had been found guilty so that he had to pay compensation. There had been a miscarriage of justice in his case
- He would not accept being bound over. He did not accept that he had done anything wrong
- The victim said that she was going to China, but this was untrue. The Court case was delayed because of this
- He confirmed the newspaper article was about him stitching up his lips in protest to being convicted when he was an innocent man
- He claimed that he did not assault the victim. He did not even touch her.
- A lot of residents of Stockwood had signed the petition because he is well known there because he used to run a business in the area
- He had been represented in court until he refused to be bound over. The barrister told him it was a good deal and he should accept it. He did not accept that he had done anything wrong and therefore represented himself after that
- The case had been to the Magistrate's Court and the Crown Court. The appeal to the Crown Court had been dismissed
- The actions/decisions of both Bristol Magistrates' Court and the Crown Court had been pre-written as he had not committed any crime

- He had been off the road for more than 15 months and had a wife and children to support
- He had been punished for a crime he never committed
- He summed up his case

The Licensing Officer noted that HDD had stated on his application on 27th July 2010 that he was not being investigated by any agency such as the Police, when he had been interviewed by the Police the previous day.

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 5.

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 be refused on the ground contained in section 59 of the Local Government (Miscellaneous Provisions) Act 1976 in that HHD had not satisfied the Council that he was a fit and proper person to hold such a licence.

INFORMATION ITEM

PSP

68.9/12

DATE OF NEXT MEETING

RESOLVED - that the next meeting be held on Tuesday 9th October 2012 at 10.00 a.m. and is likely to be a meeting of Sub-Committee A.

(The meeting ended at 2.45 pm.)

CHAIR

BRISTOL CITY COUNCIL**MINUTES OF MEETING
OF THE PUBLIC SAFETY AND PROTECTION
SUB-COMMITTEE B
HELD ON 11th SEPTEMBER 2012 AT 10.00 AM****PSP 62.9/12****Agenda item no: 6****Agenda title****COMPLAINT OF OFFENDING CONDUCT BY PRIVATE HIRE DRIVER
LICENCE: RH****Finding of Facts**

On 21st November 2011 RH was found guilty of theft and failing to appear at Court.

On 11th June 2012 RH appeared in Court charged with Excess Alcohol and Possession of Cannabis.

On 13th May 2012 RH was stopped by Police when not displaying a rear BCC licence plate with two female passengers in the vehicle. No record could be found of a booking for the journey and a case file had been passed to BCC Legal Services to consider whether to prosecute him for the offences of plying for hire and having no insurance. This was the third occasion that RH had been stopped when not displaying a rear BCC licence plate. On each occasion he claimed the plate had been stolen.

Decision

That the Private Hire Driver's Licence held by RH be revoked on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976, namely "any other reasonable cause" in that the Council could no longer be satisfied 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.

There were three matters of concern. The first related to RH having been found guilty of theft by shoplifting and failing to appear in Court. Members noted that in relation to dishonesty offences their Policy specified a period of 3 to 5 years free of conviction for a licence to be issued. As RH had very recently been found guilty of an offence involving dishonesty, this alone was sufficient to place a large question mark over his fitness to hold a private hire driver's licence.

The second matter related to

RH having been charged with Excess Alcohol and Possession of Cannabis. The case had been adjourned for a full hearing – presumably a trial – on 1 October 2012.

The third matter related to an allegation of Illegally Plying for Hire and having no insurance in respect of which a case file had been prepared and referred to Legal Services with instructions to prosecute.

Although RH had not been convicted of the second and third matters, the Members could not be satisfied that he was still a fit and proper person to hold a Private Hire Driver's licence with such serious allegations hanging over him.

Members therefore unanimously resolved that there was "reasonable cause" to revoke the Private Hire Driver's Licence held by RH.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF MEETING
OF THE PUBLIC SAFETY AND PROTECTION
SUB-COMMITTEE B
HELD ON 11th SEPTEMBER 2012 AT 10.00 AM**

PSP 63.9/12

Agenda item no: 7

Agenda title

**APPLICATION FOR THE GRANT OF STREET TRADING CONSENT AT
FORECOURT OF 189 HIGHRIDGE GREEN, BRISTOL**

APPLICANT: YENER OLGUN

PROPOSED TRADING NAME: GEORGE'S SNACKS

Decision

That that the application for a Street Trading Consent on the forecourt of 189 Highridge Green, Bristol, between the hours of 1700 and 2300 Mondays to Saturdays and 1700 to 2200 Sundays be granted to Yener Olgun, subject to the General Conditions attached to the Report at Appendix A. Condition 18 to be modified so that it reads "The consent holder shall not cause any nuisance of annoyance to persons using the street or to any other premises within the vicinity". The consent shall also be subject to an additional condition whereby no electrical generator shall be used in connection with the business/use of the trading unit.

Reasons for Decision

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

Members noted that the applicant had successfully run a business in the near vicinity without any complaints. The impression he gave that he was a responsible trader who could no longer operate at his previous pitch because the public house had become a "sizzler" style restaurant so there was no longer a need for the additional provision of food at that location.

Members fully acknowledged the concerns expressed by local residents but considered that the conditions to be imposed on the consent would address these issues.

The Committee informed the Applicant that a street trading consent could very easily be revoked so it was within his best interests to ensure that he operated a

tight ship without causing problems of nuisance.

It was further noted that no representations had been received from the Police or Highways.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF MEETING
OF THE PUBLIC SAFETY AND PROTECTION
SUB-COMMITTEE B
HELD ON 11th SEPTEMBER 2012 AT 10.00 AM**

PSP 65.9/12

Agenda item no: 6

Agenda title

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

Decision

That the application be refused.

Reasons for Decision

Members considered very carefully all of the written and verbal evidence presented to them, as well as the visual inspection of the vehicle.

Whilst noting that the vehicle now appeared to be Bristol Blue, Members did not consider that they had been presented with enough evidence to persuade them to make an exception to their Policy in this case. The Members had a great deal of sympathy for the applicant, but did not accept that officers had made representations to him that his vehicle licence would be renewed. It seemed as though he may have confused the procedure concerning his Hackney Carriage Driver's licence with that of the vehicle licence.

The vehicle in question did not conform with Council policy and there were no firm reasons presented to the Committee to persuade them to depart from the policy without undermining it.

During inspection of the vehicle, the Members had asked the applicant to demonstrate how he would load a wheelchair into it. A wheelchair would be loaded from the side of the vehicle but the main concern of the Members was the length of time it took the applicant to prepare the vehicle to transport a wheelchair. It seemed to take him a very long time to locate and then place the wheelchair ramps at the side of the vehicle. The ramps did not appear to be very secure either.

The Committee Members also noted that although the exterior of the vehicle looked tidy, the interior looked as though it had seen better days. The Members

were therefore unanimous in their decision to refuse the application.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF MEETING
OF THE PUBLIC SAFETY AND PROTECTION
SUB-COMMITTEE B
HELD ON 11th SEPTEMBER 2012 AT 10.00 AM**

PSP 66.9/12

Agenda Item No: 10

Agenda title

REPORT OF INFORMATION RECEIVED ON AN ENHANCED CRIMINAL RECORD BUREAU CERTIFICATE RELATING TO THE HOLDER OF A HACKNEY CARRIAGE DRIVER'S LICENCE - IH

Finding of Facts

A CRB Check on IH showed up 3 incidents involving him. There was one proven incident concerning an altercation with a customer which had been dealt with by way of restorative justice. The other two incidents were unproven. At this time therefore the Members did not consider that further action against IH in respect of his Hackney Carriage Driver's Licence would be proportionate.

Decision

That no action be taken.

Reasons for Decision

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

Although Members were concerned about the list incidents revealed in the enhanced CRB check, it was clear that only one of them had been proven. This involved an altercation with a customer that had been dealt with by way of restorative justice reflecting that the incident was regarded by the Police as being at the more minor end of the scale.

The other two incidents were not proven and although the Members were concerned that there might be a pattern of behaviour emerging, they were aware that great caution would have to be exercised before attaching any weight to the allegations without having the opportunity to hear from any of the complainants.

The Members also considered IH's explanation concerning his non-disclosure of these matters to the the Licensing Office to be a reasonable one.

At this time therefore, the Members considered that it would be disproportionate to take any action in respect of IH's Hackney Carriage Driver's licence, although they emphasised that they would not wish to see him again before this committee in respect of similar matters.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF MEETING
OF THE PUBLIC SAFETY AND PROTECTION
SUB-COMMITTEE B
HELD ON 11th SEPTEMBER 2012 AT 10.00 AM**

PSP 67.9/12

Agenda Item No: 11

Agenda title

APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER LICENCE – HHD

Finding of Facts

- HHD was found guilty of Common Assault by Bristol Magistrates on 6th June 2011. The conviction had been upheld on appeal to the Crown Court
- HHD had not satisfied the Council that he was a fit and proper person to hold a Hackney Carriage Driver's Licence

Decision

That the application 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 HHD 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.

Although HHD vehemently denied that he had done anything wrong, the Members were mindful of the fact that he had been convicted following a full trial and a subsequent appeal in the criminal courts on a strict standard of proof. The Committee were not entitled to "go behind" the conviction.

HHD had been convicted of common assault against a female passenger whilst he was working as a hackney carriage driver. For this offence he had been given an 8 week community order involving tagging and a curfew order. He was also ordered to pay compensation to the victim and prosecution costs totalling £820.00. The sentence imposed by the criminal courts sent a clear message to the Committee that the offending conduct was considered to be at the more serious end of the scale.

The Council's policy on criminal behaviour recommends that in respect of offences involving violence a period of 5 to 8 years free of conviction is usually required before an application can be entertained. The primary concern is

protection of the public.

The Committee were also unimpressed by the fact that in his application to the Council dated 27 July 2010 HHD had failed to declare that he was being investigated by the Police for an offence when only the day before he had been interviewed under caution in respect of this incident.

A Committee previously hearing this matter had considered the case against HHD to be so serious that it merited an immediate suspension of his Hackney Carriage Driver's Licence.

The Committee had heard nothing from the applicant today to persuade them that he should be treated as an exception to the Council's policy on criminal behaviour without undermining the purpose behind it.

Chair's Signature