



**Agenda Item No: 4 (f)**

## **Bristol City Council**

### **Minutes of the Public Safety and Protection Sub Committee A**

Tuesday 7<sup>th</sup> October 2014 at 10.00am

**Members Present:-**

Councillors Jay Jethwa, Mike Langley, and Estella Tincknell (Chair),

**Officers in Attendance:-**

Kate Burnham-Davies - Legal Services, Abigail Holman - Licensing Section, Norman Cornthwaite - Democratic Services

**69. Apologies for Absence** (Agenda Item No. 1)

Apologies were received from Councillor Tim Leaman

**70. Declarations of Interest** (Agenda Item No. 2)

No further Declarations of Interest were received.

**71. Public Forum** (Agenda Item No. 3)

Nothing was received.

**72. 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** (Agenda Item No. 4)

**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.**

**73. Application for the Grant of a Street Trading Consent at Old Petrol Station,**

**Bedminster Road** (Agenda Item No. 6)

**Applicant - Hayrettin Akgun**

**Proposed Trading Name - Istanbul Kebabs**

The Licensing Officer advised Members that the applicant would not be able to attend the Meeting and has requested a deferment of consideration of his application.

**Resolved - that consideration of this application be deferred until a future Meeting of the Committee.**

**74. Exclusion of the Press and Public** (Agenda Item No. 5)

**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).**

**75. Application for the Grant of a Hackney Carriage Driver's Licence and a Private Hire Driver's Licence - AI** (Agenda Item No. 7)

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

It was noted that consideration of this application had been adjourned on 29<sup>th</sup> July 2014 to enable AI to obtain further information from the Police.

AI 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. She confirmed that consideration of this application had been adjourned on 29<sup>th</sup> July 2014 to enable AI to obtain further information from the Police concerning his Caution for Soliciting. A letter from the Police is appended to the report along with two character references. She also confirmed that AI has completed the Change Course. She noted that AI claims to have held a taxi licence for more than 10 years; this may be correct as some the Licensing Section's records are missing.

Al put his case and answered questions highlighting the following:

- He confirmed that he has held a taxi licence for more than 10 years and has never been in trouble
- He has acted selflessly and responsibly before, taking a vulnerable young woman home who was crying and was thanked by her parents (free of charge).
- Referring to the incident, he stated that he was stopped by 2 police Officers - 1 male and 1 female; he was told he would have to go to Court if he did not accept the Caution; he accepted the Caution as he did not want to have to go to Court; he was later advised by a solicitor that he should not have accepted the Caution but it was too late to change his mind; as part of the Conditions of the Caution, he paid £200 to attend the Change Course; he was not aware that he was required to declare the Caution to the Licensing Section and had tried to research the impact of a caution online.
- He confirmed that he was working as a Hackney Carriage Driver and was flagged down by a woman who asked to be taken somewhere; she sat in the back of the car. He believed this was a legitimate fare. He was then stopped by the Police, advised that she was a prostitute and was accused of picking her up; the prostitute did not offer her services to him; he was interviewed by the Police. They took the woman away, Al believes she was arrested but cannot be sure. He was not aware of the account she gave.
- He summed up his case and stated that he was sorry to be before Members as he had done nothing wrong

The Legal Adviser stated that a Caution is spent as soon as it is accepted and does not have to be declared in certain circumstances. A Caution can only be offered once an admission of guilt has been made and the evidence is strong enough to merit a prosecution should the caution offered be refused.

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

The details of the Committee's findings and reasons for the decision are set out below.

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

Members noted that should they decide to grant an exception to their Policy they must be satisfied that the exception is justified.

They also noted that AI has been a taxi driver for a number of years and has never had any problems before or after the Caution; they considered the information provided by the Police to be vague in comparison to the information provided by AI which was very clear; they noted that it is now more than 2 years since the date of the Caution and that AI has not worked as a taxi driver for nearly 6 months; they noted the 2 references provided by AI.

Taking the above into account Members decided to make an exception to their Policy and grant the application made by AI.

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

**Resolved – that an exception be made to the Policy and that the application for a Hackney Carriage Driver’s Licence and a Private Hire Driver’s Licence made by AI be granted as he has convinced the Council that he is a fit and proper person to hold such licences.**

**76. Application for the Grant of a Private Hire Drivers Licence - DD (Agenda Item No. 8)**

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

DD 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 as set out in detail in the report. The Committee noted the background to this case, including details of the convictions especially the conviction for Dangerous driving and Conceal/disguise/convert/transfer remove criminal property on 11<sup>th</sup> April 2011, which was considered to be very relevant to his case. The Committee noted its Policy in relation to Offences of Dishonesty - that a period of 3 to 5 years free of conviction is required before an application is likely to be considered favourably. She also advised that the dates of the Offences were 10th June 2002 and 8<sup>th</sup> October 2010 respectively. She drew attention to the references provided by DD and confirmed that he still has to be pass the other parts of the fit and proper test.

DD put his case and answered questions highlighting the following:

- Referring to the offence in 2010, he explained that he was working as a taxi driver but was not logged on when he received a 'phone call from a regular customer, who had his 'phone number; the customer asked him to take a bag of money somewhere
- He agreed to drive to Whitchurch with the customer and the bag of money; there, another man got in the car, he passed the carrier bag (which the Police subsequently advised him contained £17,500) to him, he took the money and got out; they (DD and the original customer) drove off but on seeing the Police the customer told him not to stop so he evaded the Police car and drove away; the customer then jumped out of the car; he 'phoned the Police and was told that they would call at his house; he was subsequently arrested; he later found out the Police had been watching the customer and had seen him with the customer on a previous occasion.
- Following his arrest he was granted bail, but the CPS objected and he was remanded in custody; there he was put in the same cell as 1 of the other defendants and asked to be moved; he spent 7 months on remand.
- At the trial the other 2 men pleaded guilty; he pleaded guilty to the 2 charges he was convicted of - the other charges against him having been dropped the day before the trial
- He did not help the Police because he feared for the safety of his family
- He admitted to taking the initial and illegal fare and accepted that was wrong.
- He was not suspicious of the fare or the bag of money at first.
- He was not aware he had become involved in an illegal activity/enterprise but had unintentionally acted as a 'driver' for criminals.
- He works at Yellow Cabs where he does managerial work; he wants a Private Hire Driver's Licence so that he can do other work if the need arises
- He summed up his case

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

The details of the Committee's findings and reasons for the decision are set out below.

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

to them.

Members noted that should they decide to grant an exception to their Policy they must be satisfied that the exception is justified.

They noted that DD had admitted to taking an illegal job, that DD was part of a serious criminal enterprise and that DD had refused to help the Police. Taking account of this and noting their policy they did not consider that enough time has elapsed since his conviction in 2011 to convince them to make an exception to their Policy.

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 from DD for a Private Hire Driver's Licence be refused as he has not satisfied the Council that he is a fit and proper person to hold such a licence.**

**77. Application for the Grant of a Hackney Carriage Drivers Licence - SE (Agenda Item No. 9)**

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

SE 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 as set out in detail in the report. SE's last licence expired on 23<sup>rd</sup> May 2012 and in accordance with the Policy any applicant who has not held a licence for more than 12 months is required to pass all of the parts of the fit and proper test as detailed in the report. SE has asked for an exemption from being required to pass the DSA, the Gold Standard Programme and the Knowledge Test.

SE put his case and answered questions highlighting the following:

- Shortly after his licence expired SE had left the UK to go to Somalia to care for his now deceased father – he had stayed for longer than first anticipated. When his licence first expired, SE could not afford to renew it. Subsequently as a result of travelling to Somalia, his time for renewal ran out. He was unable to renew from Somalia as there is no postal system in Somalia. He did not have access to phones

or email whilst there.

- He has previously passed the DSA and Knowledge Test in 2007; the Gold Standard has been introduced (in 2012) since he first held a licence
- He summed up his case

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

The details of the Committee's findings and reasons for the decision are set out below.

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

Members noted that should they decide to grant an exception to their Policy they must be satisfied that the exception is justified.

Members noted that SE had already taken the DSA and the Knowledge Test, and therefore decided that he be allowed an exemption from taking these. They considered that being required to take the Gold Standard Taxi Driver Training Programme would assist him as he has not worked as a taxi driver for more than 2 years.

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

**Resolved - (1) that an exception be made to the Policy and that SE be allowed an exemption from being required to take the DSA and Knowledge Test; and**

**(2) that SE be granted a Hackney Carriage Driver's Licence, initially for a period of 3 months to enable him to take the Gold Standard Taxi Driver Training Programme.**

**78. Application for the Grant of a Private Hire Drivers Licence - CC (Agenda Item No. 10)**

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

CC 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 as set out in detail in the report. The Committee noted the background to this case, including a conviction for Affray and a conviction for Conspire/Supplying Controlled Drug - Class B. The attention of the Committee was drawn to BCC Policy guidance which states that that an application would normally be refused if the conviction for Affray was less than 5 years old, with more weight given to the circumstances between 5 to 8 years old and for Drugs Offences that an application would normally be refused if the conviction was less than 5 years old.

CC put his case and answered questions highlighting the following:

- The Affray Offence had taken place when he was 19 years old and occurred as a result of an argument over getting into a taxi late in the evening after he had been drinking alcohol
- In relation to the Drugs Offence, he drew attention to the letter from his solicitor explaining his minimal involvement in the crime - he worked with the man and just went along to support him; the cannabis had a street value of £4,000; it was a bad judgement to accompany the other man who had been under surveillance by the Police for some time; he pleaded guilty to the offence; he does not take drugs
- He works as a scaffolder and was previously studying to be a quantity surveyor; he now wants as a taxi driver and the working hours can be more flexible - he has a young family
- He summed up his case.

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

The details of the Committee's findings and reasons for the decision are set out below.

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

Members noted that should they decide to grant an exception to their Policy they must be satisfied that the exception is justified.

Members noted that they could disregard the Affray Conviction as it is more than 5 years old and therefore outside the scope of their policy.

In relation to the Drugs Conviction, Members noted that it was less than 2 years old,



however they also noted that the Court accepted his version of events - that he played a minimal role in the crime, that he has been honest with them, that he did not gain from the crime, that he does not take drugs and that the offence was not connected with driving a taxi. Members gave great weight to the supporting letter from CC's solicitor and the way CC presented his case. They therefore agreed to make an exception to their Policy and grant him a licence.

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

**Resolved - that an exception be made to the Policy and that the application from CC for a Private Hire Driver's Licence be granted, subject to him passing the remaining parts of the fit and proper test, as he has convinced the Council that he is a fit and proper person to hold such a licence.**

**79. Application for the Grant of a Private Hire Drivers Licence - ZA** (Agenda Item No. 11)

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

ZA was in attendance, accompanied by 2 colleagues.

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

The Licensing Officer summarised the report, highlighting the key issues set out in detail in the report. She drew attention to the Convictions and Caution summarised in the report. The attention of the Committee was drawn to BCC Policy guidance which states that for Drugs Offences an application would normally be refused if the conviction was less than 5 years old. The Committee noted that the Penalty for the 2011 Conviction was £70 fine, £85 costs, £15 victim surcharge and destruction of the drugs.

ZA put his case and answered questions highlighting the following:

- He was young and mixed with the wrong people; he no longer mixes with them; he has a daughter and is more responsible now; he looks after his father and has been working for 2 ½ years
- The property damage relates to a vehicle
- The friends he previously associated with were known to the Police - they smoked

cannabis and were frequently arrested by the Police; he does not take drugs any more

- He tabled 2 reference letters and a copy of each of these is contained in the Minute Book
- ZA summed up his case - he wants to drive taxis as the flexible hours of work suit him

Each of the colleagues who accompanied ZA made statements in support of him.

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

The details of the Committee's findings and reasons for the decision are set out below.

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

Members noted that should they decide to grant an exception to their Policy they must be satisfied that the exception is justified.

Members noted that ZA was a regular and persistent offender, and although his last conviction was in 2011, Members did not consider that enough time free of conviction had passed to convince them that he is fit and proper person. Members noted their policy which required a period of 5 years conviction free in relation to the drug taking offences. Members noted ZA had turned over a new leaf but felt more time was needed to prove the transformation to a consistently law abiding citizen was complete.

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

**Resolved - the application from ZA for a Private Hire Driver's Licence be refused as he has not convinced the Council that he is a fit and proper person to hold such a licence.**

Chair

(The meeting ended at 3.20 pm.)