

# Bristol City Council

## Minutes of the Public Safety and Protection Committee Sub B



**14 November 2017 at 10.00 am**

### **Members Present:-**

**Councillors:** Paula O'Rourke, Ruth Pickersgill (Chair) and Lucy Whittle

**Officers in Attendance:-** Kate Burnham-Davies, Carl Knights, Alison Wright, Wayne Jones, PC Patrick Quinton, Ruth Quantock (Democratic Services Officer)

### **1. Apologies**

The Chair welcomed those present to the meeting and introductions were made. Apologies were received from Cllr Chris Windows.

At the start of the meeting it was noted that items 5 (Crazy Pig and Hillbillies – street trading) and 8a (Application for the grant of a Hackney Carriage Licence seeking departure from Council Policy – SM) had been withdrawn from the agenda.

### **2. Declaration of Interest**

Cllr Ruth Pickersgill indicated that she knew of Kerry Barker (solicitor representing D & B Takeaway) when he ran as a labour candidate. The legal adviser to the Committee confirmed that under these particular circumstances there was no conflict of interest.

### **3. Public Forum**

None received.

### **4. Suspension of Committee Procedure Rules CMR10 and CMR11 Relating to the Moving of Motions and Rules of Debate**



**RESOLVED: That the committee procedure rules relating to the moving of motions and the rules of debate (CMR 10 and 11) be suspended for the duration of the meeting.**

**5. Crazy Pig and Hillbillies - Street Trading - WITHDRAWN**

**6. Ayan Dogan D & B Takeaway - Street Trading**

**(Open session)**

The applicant AD, his brother JD and Kerry Barker (Counsel for the applicant) were in attendance together with an interpreter for the applicant.

The Chair welcomed those present to the meeting and introductions were made.

The Licensing Officer presented the report and provided the following additional information:-

- The applicant has agreed to address all concerns raised by Destination Bristol, which included repainting the trailer and moving it on and off the site at the start and end of trading each day.
- From an officer perspective this would resolve the issues raised in the report

Mr Barker representing the applicant added the following information for consideration by the Committee:

- The applicant has been trading at this site for 10 years. He previously traded under the market regime and not the consent regime. There has never been a problem at this location.
- Renewals were not sent by post in this case, they were sent by email (as is now the practice) and the applicant had not receive them. AD does not have an email account and JD was in Turkey with limited or no internet access.
- The van should have been removed at the end of each trading day but the roadworks at the time prevented them from doing so. It was not in the interest of the applicant to leave the vehicle in this location unattended as it was vulnerable to vandalism.
- The conditions of the consent do not currently state that the van must be removed and the Committee were therefore asked to consider adding this condition when determining this application as a way of assuaging any concerns.
- KB previously represented the Council in opposing the extension of 'Kebab Corner'. All concerned wanted units across the City Centre to aid dispersal during the night time economy. The applicants offering assisted in that regard.
- The applicant cleaned up the streets every night and essentially does a public service

AD added that he had never had any trouble in this location or been subject of any formal complaint. At the end of the shift, staff often gave free food to homeless people.

The Licensing Officer and the applicant side left the room whilst the Sub-Committee considered its decision.

**Decision**



During deliberations, Members carefully considered the written and verbal evidence presented to them. Members stated this offer brought something important to the night-time economy and there was no evidence to suggest that it should not be located in this area. The representation from Destination Bristol was not helpful as it did not provide any detail and had not been a formal complaint. Members decided to renew the consent with an additional condition to remove the trailer at the end of each night when trading hours had finished.

The Licensing Officer and applicant together with his representative returned to the room and were informed of the Sub-Committee's decision, by the Chair.

**RESOLVED:**

**That the renewal of Street Trading consent at Clare Street, Bristol be approved subject to the inclusion of an additional condition to remove the trailer at the end of each night when trading hours have finished.**

**7. Exclusion of the Press and Public**

**RESOLVED:**

**That under Section 11A (4) of the Local Government Act 1972, the public be excluded from the meeting on the grounds that the business to be considered involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act, as amended.**

**8. Application for the renewal of a Private Hire Drive Licence 4455 - CCC**

CCC was in attendance

The Chair welcomed those present to the meeting and introductions were made.

The Licensing Officer presented the report and summarised the reasons for the application for renewal of the PHD Licence which expired on 03 October 2017. It was noted that CCC had made a false statement in his previous renewals dated 12 January 2015 and 05 October 2015. CCC's subsequent applications only enquired as to convictions/cautions received since the grant of the last licence so the applicant's signed statement was true.

CCC was then invited to present his case and address any questions put by the Committee:-

- In relation to the conviction the applicant stated that he had been giving a lift in his private car to someone who was wanted by the police.
- He was stopped and arrested along with the suspect. The suspect was arrested for kidnap and GBH. CCC was arrested for assisting an offender. It was the offender's cannabis but as it was in



the applicant's vehicle he accepted a 'simple caution' for being in possession of it. A copy of the simple caution issued by the police was circulated to the Committee.

- CCC stated that he had historical troubles and convictions. If the police had really thought that the cannabis was his, he believed that they would not have offered him a simple caution and would have dealt with him more seriously.
- He explained that at the time of applying for renewals he had a lot of family problems, he was a single parent and his son was in prison, his own father had also passed away so he had a lot of other things on his mind. He had had his first taxi licence in 1988 and had received no personal complaints against him.

The Licensing Officer and the applicant side left the room whilst the Sub-Committee considered its decision.

### **Decision**

During deliberations, Members carefully considered the written and verbal evidence presented to them. They acknowledged that CCC had made false declarations but the caution itself was not considered by the Committee to be a serious offence and there were no concerns regarding public safety. CCC had already been off the road and not working since 3<sup>rd</sup> October 2015.

In conclusion, Members were satisfied that CCC remained a fit and proper person to hold a licence

The Licensing Officer and CCC returned to the room and were informed of the Sub-Committee's decision, by the Chair.

### **RESOLVED: that the application for the renewal of a Private Hire Driver Licence be GRANTED**

The Chair informed CCC that in future he must be open and truthful and she explained the importance of honesty in this regime.

### **9. Application for the grant of a Hackney Carriage vehicle licence - SM**

### **10 Application for the renewal of a Private Hire Vehicle Licence - FM**

Before the start of the hearing, the Committee and the Licensing Officer had met the applicant outside the front of City Hall to inspect the vehicle. The Members noted that the tints were very dark and passengers were not able to be seen from the outside when sitting in the back. The vehicle was in an excellent condition.

The Chair welcomed those present to the meeting and introductions were made.

FM was in attendance.

The Licensing Officer presented the report explaining that BCC Fleet Services have confirmed



that the tints recorded in 2016 and 2017 were at a level that does not meet the Council's Inspection Standard, however due to a misinterpretation a pass had been recorded on the certificate. It was noted that FM has advised that the tints on the vehicle are factory fitted and were present at the time of first licensing as a PHV in 2010.

It was noted that the applicant had now applied for an exemption to display his plates which if granted, would result in the tints issue falling away – if exempt from displaying plates, tints are permitted.

FM was then invited to present his case and address any questions put by the Committee:-

- FM works for an executive car company - Bristol Chauffeur and Wedding Services 30-35% of the time and the rest of the time for V Cars. A letter from the Chauffeur car company supporting exemption from displaying plates had been received and circulated to the Committee ahead of the hearing. Tinted windows were required for this executive work.
- The car was manufactured with tints and has always been licensed by Bristol City Council (since 2010).
- FM indicated that it would cost him £1100-£1200 to change the tints and he has 2 years left on the plate before it needed to be renewed.
- FM indicated that he did not intend to increase the amount of executive work in the near future.

The Licensing Officer and the applicant side left the room whilst the Sub-Committee considered its decision.

### Decision

During deliberations, Members carefully considered the written and verbal evidence presented to them. It was noted that for 65–70% of the time FM would not require an exemption so there was no valid reason why Committee should agree to depart from the BCC Policy. The request for tints in this case could not be justified. Public Safety is the overriding concerns and tints are not required for the majority of his taxi work.

The Committee acknowledged that FM had been completely open and honest with them, however the vehicle had been previously licensed in error by Bristol City Council Fleet Services and the Committee considered that in order to ensure consistency with Council policy and fairness to other licensees it was appropriate to correct the position.

The Licensing Officer and FM returned to the room and were informed of the Sub-Committee's decision, by the Chair.

**RESOLVED: that the application for the renewal of a Private Hire Driver Licence seeking a departure from council policy and a request for an exemption from the display of plates on PHV be REFUSED on the grounds contained in section 60 (1) (a) and (c) of the Local Government (Miscellaneous Provisions) Act 1976.**

### 11 Conviction of a Hackney Carriage Driver's Licence and renewal application - MMO



MMO was in attendance together with a number of people in support including a Trade Representative, a number of representatives from the Bristol Somali Centre and an interpreter for the applicant.

The Chair welcomed those present to the meeting and introductions were made.

The Licensing Officer outlined the key details as set out in the report.

MMO was then invited to present his case and address any questions put by the Committee:-

- MMO read out a prepared statement as to the circumstances of the offence which was also circulated to the Committee and other officers present.
- The no U turn sign had been turned around and was facing the wrong way so was not clearly visible from the direction MMO had travelled.
- On renewal application dated 19 October 2016 MMO had informed the Licensing office of the accident and the ongoing police investigation (Appendix A of the report).
- MMO had produced further documentation dated 21 February 2017 stating that he had been charged with three driving offences (Appendix B and C of the report).
- MMO had pleaded guilty to driving without due care and attention and the other two charges had been dropped. MMO's driving record was subsequently endorsed with 9 points.
- MMO had informed the licensing office that he would be out of the country from 27 August – 20 October 2017.
- One of the Elders in the Somali Community provided a character witness statement in respect of MMO indicating that he provided transport on a voluntary basis within the community and had had no other accidents or driving offences.

The Licensing Officer and the applicant side left the room whilst the Sub-Committee considered its decision.

### **Decision**

During deliberations, Members carefully considered the written and verbal evidence presented to them. Members acknowledged MMO's honesty and that he had kept the licensing office informed at every stage as per his licence conditions. It was noted that it had been one isolated accident/incident which had happened over 6 months ago so it would be in line with BCC Policy to grant a renewal application. MMO was a responsible member of the Community as demonstrated by the show of support for his character at the hearing.

The Licensing Officer and MMO returned to the room and were informed of the Sub-Committee's decision, by the Chair.

**RESOLVED: that no further action be taken and the application for the renewal of a Hackney Carriage Driver's Licence be GRANTED.**

## **12 Investigation of Private Hire Driver - BB**



BB was in attendance and introductions were made.

The sub-committee considered the appropriate action following on from an investigation by the Neighbourhood Enforcement Team as a result of video footage. It was confirmed that Members had had sight of the video footage and BB agreed that he had also seen it in advance of this hearing.

The Neighbourhood Enforcement Officer outlined key details set out in the report and confirmed that a PACE interview had been duly conducted on 5<sup>th</sup> October 2017. It was noted that the transcript of this interview had not been made available to Members as part of the Committee papers.

BB was invited to put his case to the Committee and address any questions put by the Committee:

- BB was a new driver with a recently inspected vehicle
- BB indicated that he had agreed a fare upfront as opposed to using the meter (even though it was within the Bristol City boundary) as he suspected they would not pay at the end of the journey if he used the meter.
- BB felt he was not responsible for making sure his passengers wear their seatbelts if he had already asked them to do so
- BB felt that the unruly passengers had no regard for their own safety and he was unable to stop them doing what they wanted
- The incident had happened in the early hours of the morning between 03:00/04:00, the roads were not busy and there were no other cars/pedestrians around at the time
- He indicated that at the time he had felt vulnerable and was weary of being attacked by the 6 passengers if he had tried to confront them, as they had been drinking. He also did not want to get in to an altercation with them as it could have resulted in him losing his taxi licence
- It was a 1 – 1.5 mile journey. He had stopped at one point to tell them to get back inside the vehicle as he could lose his licence.
- After the journey had started again they were standing up on the seats and he was unsure what was going on in respect of the passengers in the back of the car. From the driver's position he could not see them crouching on the roof of the car, as captured in the video footage. The controls for the sunroof were in the back of the car, so the youths must have opened the sunroof themselves and climbed up in order to sit on the roof of the car.
- With his own safety in mind, BB had not wanted to stop the vehicle again and wanted to get to the destination as soon as possible. At the time, he hoped that a police car would see him and then he would have felt safe to stop the vehicle.
- BB said that he had flashed a police car which was coming up Broadwalk with its sirens on, it had continued up Broadwalk but police officers had then turned the car around a little way up the road and caught up with him once he was at his destination. At this point the youths had alighted and run off. BB indicated that the police officers had just given him words of advice, they did not ask him to get out of the car so he did not take their names or collar numbers.



The Chair commented that the overriding consideration of the Committee was the safety of the public. When questioned by Members as to what he would do differently in future, BB replied that he would stop the car, leave the car and call the police. When further questioned as to him seemingly trivialising the situation – telling the unruly passengers to get down and wear their seatbelts, BB replied ‘there was nothing else he could do / what could he do?’

The Licensing Officer and the applicant side left the room whilst the Sub-Committee considered its decision.

### **Decision**

During deliberations, Members carefully considered the written and verbal evidence presented to them. Members felt that in his responses, BB did not come across as sorry or appear to take responsibility for his lack of action. Members were unanimous that his account was rather vague and he displayed no awareness of the real danger his passengers were in. BB was an inexperienced/new driver and did not appear to have taken the incident seriously, displaying a very blasé attitude. BB negotiated a fare when he should have had his meter on and had carried on driving after the first attempt to get the passengers back into the vehicle. He carried on driving for another 0.5 miles, negotiating a right hand turn into Broadwalk, so his passengers were in grave danger. BB had indicated to the Committee that he had not wanted an altercation which could have resulted in him losing his licence, he had also said he thought that they would attack him or the opposite (he would have to engage them in violence) which the Committee considered to not be a responsible action of a taxi driver.

In conclusion, this was a very serious incident, the account given by BB stating he didn’t know 3 of his passengers were on the roof of the car was not deemed credible. Under the circumstances Members did not consider BB to be a fit and proper person to hold a taxi licence.

The Neighbourhood Enforcement Officer and BB returned to the room and were informed of the Sub-Committee’s decision, by the Chair.

### **RESOLVED:**

**That the Council could no longer be satisfied that BB was a fit and proper person to hold either a Hackney Carriage Drivers Licence or Private Hire Drivers Licence and in consequence there was “reasonable cause” to REVOKE both licences on the ground contained in section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976.**

### **13 Private Hire Driver dealt with by an out of court disposal - JQ**

JQ was in attendance, together with Andrew Rae from Nelson Legal who was representing him.

The Chair welcomed those present to the meeting and introductions were made.

The Taxi Compliance Officer (PQ) outlined the key issues as set out in the report.



AR was invited to put forward the case on behalf of PQ and address any questions put by the Committee:

- JQ has been a private hire driver for 14 years – his licence expires on 10 August 2018.
- JQ has admitted the offence and accepted a caution.
- It was a one off incident and he has never been the subject of a complaint before.
- JQ is a competent, qualified driver and has never had any criminal conviction/caution or endorsements before.
- The Controller had told him to stay in the area and wait for a fare to come in over the radio. He had parked up in an area in Queens Road, commonly used by Hackney Carriage Drivers. Members of the public had got in to the cab but he had asked them to leave just as the Taxi Compliance Officer had seen him and spoken to him.
- JQ has elderly parents but no children – losing his licence would impact on his parents. A busy period for driving is coming with Christmas on the way. JQ has admitted the offence, is remorseful and has learnt through the experience. A short suspension may be appropriate but the Committee were asked to consider not extending it too far into the Christmas period.

The Taxi Compliance Officer added that this was a known hot spot for plying for hire. In his view JQ had only asked his passengers to leave after he had spoken to him. The offence had already been made and the fare had already been agreed according to the passengers. JQ had not admitted to the offence at the time.

The Taxi Compliance Officer and the applicant side left the room whilst the Sub-Committee considered its decision.

### **Decision**

During deliberations, Members carefully considered the written and verbal evidence presented to them. Members felt that this was unacceptable behaviour for an experienced driver who knows the rules. Members agreed that JQ was not currently a fit and proper person to hold a Private Hire Drivers Licence and therefore needed a period of reflection. It was acknowledged that JQ had subsequently made a full admission and appeared to be genuinely sorry. The Sub-Committee felt in view of all the facts a suspension for a month would be appropriate.

The Taxi Compliance Officer and BB returned to the room and were informed of the Sub-Committee's decision, by the Chair.

### **RESOLVED:**

**That the Council could no longer be satisfied that JQ was a fit and proper person to hold a Private Hire Drivers Licence and in consequence there was "reasonable cause" to SUSPEND the licence for one month under 61 (1) (a) (ii) of the Local Government (Miscellaneous Provisions) Act 1976. The suspension to be lifted at 00.01 of 13<sup>th</sup> December 2017.**



**CHAIR** \_\_\_\_\_

