

Bristol City Council

Minutes of the Public Safety and Protection Sub-Committee B



9 July 2019 at 10.00 am

Members Present:-

Councillors: Chris Davies, Richard Eddy (Chair), Fi Hance, Sultan Khan and Jo Sergeant

Officers in Attendance:-

Sarah Flower (Licensing Policy Advisor), Lynne Harvey (Legal Advisor) and Abigail Holman (Licensing Policy Advisor)

1. Election of Chair for 2019/20

The Democratic Services Officer received proposal for Chair of PSP Sub-Committee B:

- Cllr Khan proposed Cllr Eddy, seconded by Cllr Sergeant
- When put to the vote it was agreed that Cllr Eddy would Chair PSP Sub Committee B

2. Election of Vice-Chair for 2019/20

The Democratic Services Officer received proposal for Vice-Chair of PSP Sub-Committee B:

- Cllr Eddy proposed Cllr Davies, seconded by Cllr Sergeant
- When put to the vote it was agreed that Cllr Davies would be the Vice-chair of PSP Sub-committee B

The Democratic Services Officer handed over the remainder of the meeting to the Elected Chair

3. Welcome and Safety Information

The Chair welcomed those in attendance and led introductions

4. Apologies for Absence

Apologies were received from Cllr Langley; Cllr Sergeant was present as his substitute



5. Declarations of Interest

None

6. Public Forum

None

7. Suspension of Committee Procedure Rules CMR10 and CMR11 Relating to the Moving of Motions and Rules of Debate

RESOLVED – that having regard to the quasi-judicial nature of the business on the Agenda, those Committee Procedure Rules relating to the moving of motions and the rules of debate (CMR10 and 11) be suspended for the duration of the meeting.

8. 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 for the following items of business on the ground that involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act, as amended.

The items on the agenda were not heard in the order published but as follows:

KU

MA

DR in absence

DS

At the conclusion of DS application Cllr Sergeant left the meeting

BD

GB

At the conclusion of GB application Cllr Hance left the meeting

SC

9. Application for Street Trading Consent: SC

This item was heard out of sequence at the end of the day and not as listed on the agenda. At the hearing of this application both Cllr Sergeant and Cllr Hance had left the meeting.

The Applicant was in attendance.



The licensing Officer presented the report to Committee.

- The application was for the grant of a Street Trading Consent for St George's Park only the other 2 locations, mentioned in the report, of Narrow Quay and Hanover Quay, had been withdrawn.
- SC had won the tender to provide a concession stand in St George's Park for a period of 3 years and is required to obtain street trading consent to trade lawfully.
- The report draws attention to an issue that arose in December 2017 when SC operated a concession on Ashton Road near the football ground that was successfully prosecuted in July 2018. That unit was found to be trading without consent, the report details the issues arising from the applicants brother's involvement in that concession.
- Officers are looking to committee to make a decision on the application on whether the applicant is suitable to trade as outlined by its policy that states:

"Suitability of Applicant

When determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant to hold such a permission including:

- a) whether the applicant has been convicted of any relevant offence;"*

The Applicant addressed the Committee:

- SC assured Committee that he had learnt a lesson from the situation that arose in 2017 when he failed to take proper steps to transfer the business to his brother.
- That he would take personal responsibility for the management of the site and would ensure that all required documentation are updated and completed as and when necessary. That his brother would not be leading this concession stand but would only work as an employee.
- SC apologised for not checking the situation with regards to the correct process and procedure relating to Ashton Road.

The Applicant and related parties left the room to enable Committee to make its decision.

The Committee considered the officers report and the oral presentation in line with Council policy.

Committee considered whether the issues relating to the actions of the applicant's brother reflected on the applicant's suitability to trade. They heard from SC that he would be responsible for all paperwork and would ensure that his brother took no part in managing this concession. Committee were reassured by this and in the knowledge that any breach of process would result in the revocation of the trading consent. On being put to the vote members unanimously agreed that the trading consent would be granted with a warning to the applicant that if he failed to take control of the business the license and consent would be revoked.

Resolved:

- 1. that the application for Trading Consent would be granted**
- 2. that the applicant would be responsible for the completion of all processed & procedures including any related documentation to operate the business.**

All parties returned to the room for the decision.



10 Application for street trading consent - DA

The applicant was unable to attend due to ill health and requested that the matter be deferred to another committee hearing date.

11 Application for the Grant of PHV - DR

DR was not in attendance. The application was originally listed for hearing on the 11th June but committee wanted to hear from the applicant so agreed for it to be deferred to give the applicant a further opportunity to attend and answer questions from committee. Committee noted that for a second time the applicant failed to attend and was happy for this matter to proceed in his absence.

The Licensing Officer highlighted the following from the report:

- The application was for the grant of a private hire vehicle licence seeking exemption from council policy as the vehicle is a diesel vehicle.
- The vehicle was owned by Bath Taxi Ltd and the applicant purchased it from them in November 2018.
- Council Policy has strict guidelines on vehicle specification, and specifically for those that are presented for first registration in that it excludes diesel vehicles.
- The applicant was expected to present his vehicle for inspection on the day of the hearing.

The Policy Advisor read the applicants email to Committee.

The Licensing Officer left the room to allow the Committee to make a decision.

The Committee Carefully considered the report of the Licensing Officer and its policy.

Members endorsed the Vehicle Specification of the policy as it was well thought out with the intention of making a contribution to the work being done to improve Bristol's air quality.

Resolved: The application be refused on the ground contained in section 48 of the Local Government (Miscellaneous Provisions) Act 1976 in that the Committee could not be satisfied that the vehicle is suitable in type for use as a private hire vehicle.

Reasons for Decision: The Committee were sympathetic to the Applicant's personal circumstances but this is not something the Council is required to take into account since the primary concern is public safety and protection and applying Council policy consistently. In this particular case the Committee could find no good reason to depart from Council policy. The Committee were also mindful of the need to ensure transparency and fairness on other licensees who have gone to considerable expense to comply with Council policy. An exception could not therefore be made.



12 Application for renewal of PHD - DS

The Applicant was in attendance.

The Licencing Officer introduced the report handing over to PC Quinton to present the evidence.

- The applicant had made an application for the renewal of his private hire driving licence that had expired on the 15th June 2019 and on conducting the preliminary checks it came to light that the applicant had been stopped on two occasions for allegedly plying for hire.
- The visual video evidence could not be viewed without the consent of the members of public captured in the video. The committee was able to hear audio recording of the approach made to the applicant by the Officer.
- The first incident took place on the 3rd December 2017 Queens Road Clifton and the second on 9th June 2019 near DoJo Nightclub. The matters are fully detailed in the report.
- 3rd December incident: DS was observed picking up someone in the area; PC Quinton explained he was in an unmarked car therefore had to call for assistance to pull the car over. When interviewed the passenger explained that he was told by the driver to say he was a friend but that was not the case. He said he had never met the driver before
- A statement had been taken from the passenger which is in the bundle
- In interview DS claimed he did know this person and that the passenger was frightened which is why he said he did not know him
- PC Quinton explained that the decision not to prosecute the matter was due to it being one word against the other and the passenger having consumed alcohol. On a criminal standard, the allegation might be difficult to prove but the Committee were entitled to look at the evidence on the civil standard, namely a balance of probabilities
- That second incident took place outside Dojos nightclub and centred around DS assertion that he had been asked by his friend inside the club to take home a girlfriend. DS said he assumed the person who got into the car was that person and proceeded to drive off.
- It was further alleged by the female passenger that DS had been given £20 as she entered the car to cover the cost of the journey to Bishopsworth but DS denied receiving any cash from her.
- In respect of the incident on the 9th June the witness was not prepared to attend court so there was not enough evidence to submit a file to the Crown Prosecution Office. Originally the witness was prepared to come to court because she was unhappy that she had lost her money but had become stressed about the prospect of giving evidence
- The matter of the £20 was left unresolved.
- PC Quinton said that on the occasions he had dealt with DS, DS had always been polite and courteous so there was no issue with his general conduct

The Applicant addressed the Committee



- The first incident on Queens Rd happened when a friend who had lost his wallet was my passenger and I agreed to take him home after a night out. DS objected to being pulled over by several police vehicles and believes this scared the passenger who then denied that they knew each other.
- DS explained that as a Sikh he could not see a friend in need and not provide assistance and that was the reason why he was in the car. DS asserted that the way in which the police had pulled him over had scared the passenger into denying that they were friends. That the passenger, whom he referred to as Jamie, was his friend and was prepared to be his witness in court if necessary but was never asked to do so.
- When asked by Committee for a further explanation, PC Quinton confirmed that he was in an unmarked vehicle and had to call for blue light assistance to pull the applicant over on the night. The Officers on duty would not be aware of the reason for the request and would therefore attend as requested.
- Committee asked to see the video to be able to determine how many vehicles were involved in the stop.
- DS explained that the second incident involved whom he believed to be a girlfriend of a friend who was in the club. He was asked to take her home after a falling out and assumed that the person who got into his vehicle was his friend's girlfriend.
- DS felt that he had been targeted by PC Quinton and made a complaint on that basis.
- That he had not been able to work for some weeks and this was impacting him financially. That he is a devout Sikh and would assist extended members of the community, family and friends when asked. That PC Quinton would confirm that he had remained polite throughout both incidents, having no complaints about my behaviour towards him.
- DS advised commitment that he was Dyslexic but able to complete receipts when asked and therefore needed to work in this capacity as a driver.
- DS denied that he had taken any money from this passenger

The Applicant with the Licensing Officer and PC Quinton left the room to allow the committee to make a decision on the application.

Resolved:

1. To refuse to renew the Private Hire Driver's Licence of DS on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 namely any other reasonable cause and that the Council could no longer be satisfied that DS was a fit and proper person to hold such a licence
2. To refuse to renew the Private Hire Vehicle Licence of DS on the ground contained in section 60 (c) of the Local Government (Miscellaneous Provisions) Act 1976 namely any other reasonable cause

Reasons for Decision

On a balance of probabilities the Committee believed the version of events put forward by both PC Quinton and the two passengers who were in the Applicant's vehicle at the material times. Particularly, after having listened to the audio footage of both incidents. It was therefore decided that on both occasions it was more probable than not that DS had plyed for hire and in so doing he would not have been insured in respect of the third party risks in



respect of that particular use of the vehicle. It was also decided that DS had probably taken £20 from the passenger in respect of the second incident and had refused to return it. Nor did he have his badges on him.

These are akin to offences of plying for hire and no insurance. Plus there is the aggravating feature of taking money from a passenger and not returning it.

The Council's policy affords a general guide on the action which might be taken where convictions, cautions and endorsable fixed penalties are disclosed, or where offending behaviour is proved to the satisfaction of the Council and reference to conviction should be construed accordingly.

The offences of plying for hire under the Town Police Clauses Act 1976 are taken very seriously by the Council since it is a widespread problem in the Bristol area in that it places the public at risk and deprives properly licensed Hackney Carriage Driver's of their livelihood.

In particular, an applicant will normally be refused a licence where (s)he has been convicted of an offence under the Town Police Clauses Act 1847 at any time during the 6 months preceding the application or has more than one conviction within the last 2 years preceding the date of the application.

In this case, two incidents had occurred within an 18 month period.

Having no insurance is classed as a major traffic offence under the policy. Where there is more than one conviction for this type of offence within the last 5 years a refusal is recommended.

Taking into account all of the above circumstances the Council could no longer be satisfied that Mr Singh was a fit and proper person to hold a PH Driver's licence.

It was also decided that the application to renew the vehicle licence should be similarly refused in view of the fact that Mr Singh is the only person insured to drive the vehicle for private hire purposes.

Cllr Jo Sergeant left the room

13 Application for the renewal of PHD Licence - KU

The Applicant was in attendance with a family member.

The Licensing Officer outlined the background to the application as follows:

- The applicant had held a PHD licence since 1993 which expired on 2nd June 2019 and on renewal the DVLA check revealed a list of driving convictions detailed in the report.
- The most recent conviction dated 8th October 2018 CD10 was not reported until the request for renewal was submitted.



- That the applicant had failed to advise the proper office of the conviction according to the terms of Council Policy.
- The PHV licence is due to expire in April 2020.
- The Committee were requested to consider whether KU was a 'Fit & Proper' person to hold a licence and to refuse the applicants request to depart from Council Policy.

The Applicant made the following presentation and answered questions put to him by the Committee:

- KU had been driving for 30years and that this was the first road traffic accident involving a cyclist. On the day of the incident every effort was made to assist the cyclist and cooperate with police.
- KU drew member's attention to the type of motoring convictions on his licence and asked them to note that this is the only offence relating to a person.
- KU had been out of work for 5 weeks and had a mortgage and family to support and was unable to do so if he was unable to run his business.
- KU explained that he understood that on conviction he had to advise the proper office and contended that he had done so. KU was unsure when the conviction took place believing that it was in February or March 2019 and that it was reasonable to declare in May.
- KU confirmed that he worked well with the members of the public and received nothing but praise when working for the local hospital taking patients to appointments and returning them home.
- KU was aware that on making an application for renewal the relevant checks would reveal all information relating to driving convictions and other offences therefore had no intention to conceal the information but believed it was appropriate to advise following conviction.
- He asked the Committee to be lenient with him

The Applicant and Licensing Officer left the room to allow Committee to make their decision.

Committee carefully considered all the information presented together with Council Policy.

Resolved:

To refuse to renew the PH Driver's Licence of KU 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 committee could no longer be satisfied that KU was a fit and proper person to hold a PHD Licence.

To revoke the PH Vehicle Licence of KU on the ground contained in section 60(c) of the Local Government (Miscellaneous Provisions) Act 1976 namely any other reasonable cause.

Reasons for Decision

The Committee noted that KU had recently been convicted of an offence of driving without due care and attention involving a collision with a cyclist that occurred in October 2018. The Conviction was dated May 2019 and KU had failed to promptly declare this to the Council in accordance with his PHD licence conditions.



It was also noted that there were a number of speeding offences over a period of time which demonstrated a pattern of offending behaviour giving rise to more cause for concern.

The offence of driving without due care and attention is classed as a major traffic offence under the Council's policy which usually recommends a period of at least 6 months free from conviction before an application will be entertained. In KU's case, he had been unable to satisfy the Members that he should be treated as an exception to the Policy.

The Committee are not required to take into account the personal circumstances of the Applicant since the primary concern is protection of the public and the driving standards of the Applicant.

It was considered there was reasonable cause to revoke the PH Vehicle licence since KU was the only person insured to drive the vehicle.

The standards of driving of KU had fallen well below the standards the Council is entitled to expect from those whom it licenses.

The Applicant and Licensing Officer returned to the room to receive the decision.

14 Application for the renewal of PHD Licence - MA

The applicant was in attendance.

The Licensing Officer presented the report outlining the background to the application.

- The applicant had requested the renewal of both his Private Hire Driving Licence that expired 12th June 2019 and the Private Vehicle Licence that expired on the 28th March 2019.
- The Applicant had advised the proper office that the vehicle had to be repaired and requested an extension that expired on the 20th June.
- On receipt of the application for the renewal of the PHD a DVLA search revealed a number of convictions that was detailed in the report totally 15 penalty points
- Committee were asked to refuse the application in line with Council policy.

The Applicant addressed the Committee:

- MA was asked to address the issue of the penalty points and those pertaining to failing to advise of the driver at the time of an offence.
- MA provided a background on his recent family difficulties resulting in him living in temporary accommodation. This had resulted in the notifications of driving offences not coming to his attendance. MA informed committee that he had given the appropriate notification, of the change of address, to both to the DVLA and Licensing Office. He had attended court providing the details of the driver at the time of



the offence but by then it was too late to share that information and therefore given the MS90 penalty charge.

- MA when asked was unable to provide an explanation as to the sequence of offences in 2004. MA explained that he had not been banned because when he attended the Magistrate Court he explained the exceptional hardship that would occur should he lose his licensing under totting up process.
- MA confirmed that he was now at a new address had advised all parties of this to avoid any future confusion.
- MA attention was brought to the additional evidence submitted that gave his previous address and asked to provide an explanation for this.
- Committee noted that he was unable to supply an adequate explanation as to why the mortgage letter was addressed in that way.
- MA advised that his vehicle had been rented out to another driver to conduct business and that person held a PHVL.
- The vehicle licence had expired whilst the car was undergoing repairs but it had now been repaired and had passed the MOT test.
- MA had not made an application for the renewal of the Private Hire Vehicle Licence.

The Applicant together with the Licensing Officer left the room for the Committee to make its decision.

The Committee carefully considered the evidence presented and oral evidence received.

Resolved:

To refuse to renew the Private Hire Driver's Licence of MA 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 Committee could no longer be satisfied that MA was a fit and proper person to hold such a licence.

Reasons for Decision:

Committee considered the accumulation of offences that resulted in 15 penalty points on his licence; MA's failure to disclose to the proper office on receiving the convictions; and the Committee noted with concern the unanswered questions about MA's previous addresses noting that the letter from the mortgage company was addressed to MA at what is said to be a former address; that proper notice was not given of his brother driving the car; they accepted that he had suffered a loss of income as a result of not being able to drive.

Committee were reminded of its policy that a licensee should advise the council by the end of the next working day of any event that impacted their driving licence. That the applicant had only applied for the renewal of his PHDL and therefore it is appropriate to consider whether MA was a 'Fit & Proper' person because of the convictions and the failure to inform contrary to policy.

The Council is entitled to take into account the number, type and frequency of this type of offence and under these circumstances the Council's policy would usually recommend a period of 12 months off the road from the date of



conviction. But given MA did not disclose this information to the Council, which is a concern of itself, he should not be entitled to benefit from the policy not biting.

The applicant and licensing officer returned to the room where the decision was shared.

15 Application for the grant of PHD - GB

The Applicant was in attendance with a family member.

The Licensing Officer presented the report:

- The application was for the grant of a Private Hire Driver Licence with exemption from taking the Knowledge Test and Gold Standard Course as the applicant would only be engaged in Chauffeuring work.
- Council policy demanded that all applicants fulfil the requirement of a fit and proper person test by undertaking a number of mandatory steps before the issuing of a PHDL.
- Officers were looking to Committee to refuse the request and adhere to Council Policy.

The Applicant addressed Committee:

- GB confirmed that he had been a care worker for a number of years supporting adults with learning difficulties.
- That he now intended to join the family chauffeuring business, working in the greater Bristol region; normally between hotels and the airport including film sets such as the Bottle-yard.
- That his time spent supporting people with special needs had resulted in him having an awareness of the care needed towards all especially those with special needs. In addition as the work was outside the local streets of Bristol the knowledge test would have no added benefit to his driving route, he would be working between fix destinations.
- GB confirmed that it was not the cost attached to the test that lead to the request but the need to have him join the family business as soon as possible to provide support.
- When asked to qualify the nature of the chauffeuring business committee were advised that the requirements were for(the following examples were provided); airport to hotel routes; services to headline acts attending local festivals; family's using private airports taking children to private schools in around the Bristol region.
- The applicant's family had been involved in the Executive Car business for over 20 years.
- The Licensing officer advised Committee that it was a growing trend for executive car businesses to have their drivers apply for exemption from the Knowledge test and the Gold Standard test but committee were reminded that the Gold Standard test covered necessary legislation and customer care including the requirement to consider the specific needs of disabled passengers.

The Applicant and parties left the room to enable Committee to make its decision.

The Committee considered the report of the licensing officer and the oral presentation together with its policy.



Committee accepted that the applicant would be working exclusively for the family executive chauffeuring business and looked to ensure that the applicant remained in this area of work and not stray into wider private hire trade. They therefore looked to apply a condition restricting the operation of the license to Executive work only. They then considered the importance of the mandatory tests. The Gold Standard test served a particular purpose therefore they could see no reason to depart from Council policy on this requirement. They were prepared to agree the exemption to the Knowledge Test as the applicant would be engaged in executive work.

RESOLVED - the Committee were satisfied that the Applicant could be treated as an exception to Council policy and be granted a licence without undertaking the Knowledge Test subject to:

(1) an additional condition being attached to the licence to ensure he only engaged in “executive/chauffeur” work in an executive vehicle as defined by Council policy.

Section 51(2) of the Local Government Local Government (Miscellaneous Provisions) Act 1976 states that a district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary;

(2) the Applicant undertaking/obtaining the following:

- a. the Gold Standard training;
- b. an Immigration Right to Licence check;
- c. a DVLA Mandate;
- d. an enhanced Disclosure and Barring Service Check.

The Applicant and all parties returned to the room for the decision.

16 Application for the grant of a PHD Licence - BD

The Applicant was in attendance.

The Licensing Officer presented the report.

- The applicant sought the re-issue of his Private Hire Driver Licence that had been revoked because he had been banned from driving for the mandatory 6 months period because the number of penalty points on his licence exceeded 12 points.
- A search carried out revealed the penalty points related to excess speed in a 20 mile per hour zone. The period of disqualification ran from the 7th June 2018 to 6th December 2018. Council policy prescribes a period of 12 months free from conviction must have elapsed from the restoration of the DVLA licence, before an application can be made.
- This is the applicants second application for grant, the first request was heard on the 19th February 2019 and refused.
- Officers were looking to Committee to refuse the request according to Council Policy.

The Applicant addressed the Committee:



- The applicant explained that he had been caught on consecutive occasions driving above 20 mph in a designated 20mph zone.
- He provided examples of his good record; that he provided a service to children services, trusted to engage with children and transport them safely for the home to school service.
- That he was no danger to the public and would going forward ensure that he drove as per the prescribed limit designated for whichever highway he was on.
- That he had attended the licensing office and advised them of the conviction but had not been advised to reconfirm the conversation in writing.

The applicant and licensing officer left the room for the committee to make a decision in this matter.

The Committee considered the notes of the previous hearing; the report of the licensing officer and the oral presentation from the applicant together with its policy.

They noted the offences related to low speed below 30mph; that the applicant had a period of 6 months without his PHDL short of the 12 months required by council policy. Committee noted the direction given to the applicant by committee in February giving rise to this second request at the end of a 6-month period.

Committee agreed that:

It was a unique situation and the committee were prepared to depart from council policy because of the applicant's good record and the nature of the offences that happened whilst driving at low speed through the 20mph zones. Committee deemed that the applicant was no danger to the public therefore agreed to grant the application.

Resolved: that committee were willing to depart from council policy and grant the application for the renewal of the Private Hire Driving Licensing.

The Applicant and the parties returned to the room to hear the decision.

17 Amended Reports

Meeting ended at 3.30 pm

CHAIR _____

