

Bristol City Council

Minutes of the Public Safety and Protection Sub-Committee B



26 November 2019 at 10.00 am

Members Present:-

Councillors: Richard Eddy (Chair), Chris Davies and Fi Hance

Also in attendance:- Sarah Flower (Licensing Office, Policy Advisor), Corrina Haskins (Democratic Services), Abigail Holman (Licensing Officer for items 8-11), Tony Johnson (Legal Advisor) and Wayne Jones (Neighbourhood Enforcement Officer) for items 12 & 13, Holly Woodrow (Licensing Office, Observer)

1. Welcome and Safety Information

The Chair drew attention to the safety information.

The Sub-Committee observed a minute's silence in memory of Councillor Mike Langley.

2. Apologies for Absence

There were no apologies for absence.

3. Declarations of Interest

There were no declarations of interest.

4. Minutes of the Previous Meeting - 24 September 2019

RESOLVED – that the minutes of the meeting of 24th September 2019 be confirmed as a correct record and signed by the Chair.

5. Public Forum

There were no public forum statements.



6. 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.

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 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.

8. Application for the Grant of a Private Hire Driver Licence Seeking Exemption from Council Policy: JL

The Licensing Officer reported that the Applicant had requested an adjournment. Members noted that this was not the first time that an adjournment had been requested by the Applicant, but as he was not a current licence holder, there was no implication for public safety of any further delay.

RESOLVED – that the application be adjourned.

9. Application for the Renewal of a Private Hire Driver Licence and Existing Private Hire Vehicle Licence:KU

The Applicant was not in attendance. The Licensing Officer confirmed that the Applicant had been advised of the date of the meeting by email and had not responded. Members agreed that the application should be heard in his absence

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

- The Applicant had previously held a PHD licence since June 1993 and on submitting an application for renewal he revealed that he had received 5 penalty points for a driving offence in October 2018 which had not been declared at the time;
- There were also a number of other convictions on his record including offences in November 2017 and March 2017;
- The application had been refused by committee on 9 July 2019 and the Applicant had reapplied on 13 September 2019;
- The Applicant had also requested to be exempt from taking the Gold Standard test and if the Committee was minded to approve the application a decision would need to be taken on the request for exemption;



- The Application would also be required to complete the following elements of the fit and proper person policy:
 - a. Gold Standard training (if exemption not granted)
 - b. Knowledge test
 - c. an Immigration Right to Licence check,
 - d. an enhanced Disclosure and Barring Service Check (if the current check is more than 6 months old at time of licensing)
 - e. A group 2 standard medical.

At this point in the meeting, the Licensing Officer withdrew from the meeting while the committee considered the application. She returned to hear the decision.

RESOLVED – that the application for a Private Hire Driver Licence be refused.

REASON: The Applicant could not be considered a fit and proper person to be granted a licence under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 Section 51(1)(a) due to his previous record of offences (some of which were not declared to the Licensing Authority at the time of offence) which is considerable and indicates that it would not be appropriate for him to hold either Private Hire Driver or Hackney Carriage Driver Licence.

The Committee recommended that no further application should be made until the due dates in accordance with the policy have passed from the date of the latest conviction of 7 May 2019.

10 Application for the Grant of a Hackney Carriage Licence Seeking Departure from Council Policy: AV

The Applicant was in attendance.

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

- The Applicant had previously held a Licence for a Hackney Carriage Vehicle (HCV) from 2014 until 17 September 2019 when he surrendered his HCD and HCV licences as he intended to retire from work;
- The Applicant had subsequently reapplied for a vehicle licence on 3 October 2019 as he stated he had made a hasty decision to retire and wished to return to work;
- There was a long history of Council Policy in relation to diesel vehicles, as set out in the report, but under current policy, any new Hackney Carriage Vehicle had to be a ultra-low emission vehicle and the vehicle in question was not;
- If Members were minded to grant the application, this would be subject to the Applicant providing the information as detailed in paragraph 18 of the report.

In response to questioning, the Licensing Officer advised that:

- the deadline had been extended twice before to allow transitional rights but it would not be appropriate to further extend the deadline and the vehicle did not meet the current standard;



- if the Applicant had not surrendered his vehicle licence, it would not have expired until 2024 and he would have been able to use his vehicle as a Hackney Carriage until that date.

The Applicant presented his case as follows (a paper copy was circulated to the Committee):

- he thanked officers for arranging the meeting to consider his application;
- he had made a hasty decision to surrender his licence, he had considered retiring as business was slow due to competition from other taxi operators;
- On retiring, he soon realised he missed his work and decided he wanted to return to driving;
- He had enjoyed being a Bristol Hackney Carriage Driver and made sure he met the standards of the job in especially in relation to the safety of his passengers;
- He asked the Sub-Committee to reconsider his application.

In response the questioning, the Applicant confirmed:

- The vehicle was a Peugeot diesel with a mileage of approximately 100,000;
- He would like to carry on working for as long as possible, at least another 5 years;
- He would like to work 3-4 days a week;
- His intention was to use the vehicle himself and not hire it out;
- He had been a Hackney Carriage Driver for approximately 20 years and a Private Hire Driver before that;
- He had been successful in his application for a Hackney Carriage Driver's Licence;
- If his vehicle licence was not granted, he would consider renting a vehicle, but he would rather use his own vehicle.

At this point in the meeting, the Licensing Officer and Applicant withdrew from the meeting while the committee considered the application. They returned to hear the decision.

RESOLVED – that the application for a Hackney Carriage Vehicle Licence be granted subject to the following satisfactory documents being produced prior to a vehicle licence being issued:

- a. Vehicle inspection check issued by Bristol City Council fleet services
- b. Proof of ownership
- c. European Community Whole Vehicle Type Approval, and Certificate of Conformity
- d. Valid Insurance
- e. Licence Fee

REASON: The Committee considered that the circumstances of the application was exceptional to set aside the Council Policy in view of the short period of time of less than one month between the Applicant surrendering his licence and reapplying for a new licence, and if he had not surrendered his licence, his vehicle would have been licensed until 2024. The Committee was satisfied that the circumstances of the case were unique and would not set a precedent.

11 Application for the Renewal of a Private Hire Driver Licence and Existing Private Hire Vehicle Licence: RS



The Applicant was in attendance with his brother.

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

- The Applicant had held a PHD Licence since 2007 and on applying for renewal in October 2019, had declared a speeding offence;
- he had failed to inform the Licensing Office at the time of the offence which was a breach of the conditions of his licence;
- the Applicant's PHV licence was due to expire on 26 November 2019;
- A DVLA check found that the Applicant had 3 motoring offences 2 which had taken place in November 2017 and one in June 2019;
- The Applicant wasn't required to declare the previous two convictions as he did so at the previous renewal, but he had not declared at time of the offences;
- When his previous licence was renewed, he had been reminded to declare offences at the time;
- There was a reference to a complaint about the Applicant in 2013 in relation to using a mobile phone while driving;
- Council Policy on minor traffic offences recommended refusal until there had been a 6 month period free of conviction.

The Applicant presented his case as follows (a paper copy was circulated to the Committee):

- Taxi work was his livelihood and he would struggle to find alternative work;
- Without his licence he would not be able to work and he had a wife and two children to support;
- He apologised for not informing the Licensing Office at the time of the conviction, but this was a mistake and he had been open about declaring the offences on renewing his licence.

The Committee advised the Applicant that although Members sympathised with his personal circumstances and financial hardship, they could not take these issues into account their overriding consideration was public safety and protection.

The Applicant was in attendance with his brother.

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

The Applicant had held a PHD Licence since 2007 and on applying for renewal in October 2019, had declared a speeding offence;

he had failed to inform the Licensing Office at the time of the offence which was a breach of the conditions of his licence;

the Applicant's PHV licence was due to expire on 26 November 2019;

A DVLA check found that the Applicant had 3 motoring offences 2 which had taken place in November 2017 and one in June 2019;

The Applicant wasn't required to declare the previous two convictions as he did so at the previous renewal, but he had not declared at time of the offences;

When his previous licence was renewed, he had been reminded to declare offences at the time;



There was a reference to a complaint about the Applicant in 2013 in relation to using a mobile phone while driving;
Council Policy on minor traffic offences recommended refusal until there had been a 6 month period free of conviction.

The Applicant presented his case as follows (a paper copy was circulated to the Committee):
Taxi work was his livelihood and he would struggle to find alternative work;
Without his licence he would not be able to work and he had a wife and two children to support;
He apologised for not informing the Licensing Office at the time of the conviction, but this was a mistake and he had been open about declaring the offences on renewing his licence.

The Committee advised the Applicant that although Members sympathised with his personal circumstances and financial hardship, they could not take these issues into account their overriding consideration was public safety and protection.

In response to questioning the Applicant responded:
His first two offences had taken place on the M32 where new speed cameras had been installed. He had committed the second offence before being notified about the first offence and that was the reason he had made the same mistake twice in a short space of time;
He was driving at 45mph in a 40mph zone;
The third offence was caught by a mobile camera on the Portway and he was driving 45mph;
He did not drive at excessive speeds and all the convictions were just over the speed limit;
He had previously attended a speeding awareness course;
He did not recall the email from the Licensing Officer reminding him to declare convictions at the time;
He had not read the conditions of his Licence and he had learnt that he must do that in the future.

The Applicant's brother spoke in support his character and said that this had been a stressful time for him and he had learnt from his mistakes.

At this point in the meeting, the Licensing Officer, Applicant and his brother withdrew from the meeting while the committee considered the application. They returned to hear the decision.

RESOLVED – that the application be refused at the current time and officers be delegated to approve the application after Friday 13th December 2019;

REASON

In accordance with Council Policy, applications should be refused until a period of 6 months free of conviction in the case of minor motoring offences and this period did not expire until after Friday 6th December 2019.

The Applicant was reminded to declare any further offences at the time of the conviction.

It was noted that no action was required in relation to the Private Hire Vehicle Licence as this expired on 26th November 2019.



12 To seek consideration as to whether a current Licence Holder is fit and proper to hold an existing Private Hire Operator Licence: DT

The Private Hire Operator (PHO) and PC Quinton were in attendance.

The Neighbourhood Enforcement Officer confirmed that the Committee were asked to consider whether the PHO was a fit and proper person following an investigation by the NET. He outlined the background to the case as follows:

- The Licence Holder had held a PHO Licence since 2007;
- The investigation followed an incident which took place in June 2019 where a taxi driver and vehicle with a South Gloucestershire Council licence was identified working for the PHO Licence Holder by PC Quinton;
- The PHO Licence Holder did not have a South Gloucestershire Council operators' licence;
- An investigation followed which included visits to the PHO office;
- A follow up letter was sent to the PHO setting out a number of concerns in relation to record keeping which was in breach of the conditions of the PHO License;
- A second visit to the PHO premises to test compliance confirmed that the Operator had implemented the recommended improvements to his record keeping;
- The PHO had attended an interview without representation and a transcript of the interview had been circulated to all parties.

PC Quinton confirmed that he had nothing to add but would answer any questions put before him.

The PHO presented his case as follows:

- He admitted that he had used a South Gloucestershire Driver, but was not aware that he needed an Operator's Licence from South Gloucestershire Council;
- Once he had been made aware of this, he had applied and been granted with the appropriate licence. He circulated the licence for Members to check that the licence was registered at a South Gloucestershire address.

At this point in the meeting the PHO, PC Quinton and the Neighbourhood Enforcement Officer withdrew from the meeting while the Committee considered whether to take any action as a result of the investigation. They returned to the meeting to hear the decision.

RESOLVED – that no action be taken in respect of the Private Hire Operators Licence.

REASON: The Committee were concerned with the previous standard of record keeping and the use of operators outside the Bristol area without a licence, but accepted that following the initial investigation from the Neighbourhood Enforcement Team, the PHO had applied and received an operator's licence from South Gloucestershire Council and had improved his record keeping.



The Committee asked Licensing Officers to write to the PHO to outline these concerns and issue a warning that any further breach of conditions would result in his Licence being reconsidered by the Committee.

**13 Report following on from a NET Investigation in regards of a Private Hire Vehicle Licence:
WH**

PC Quinton was not in attendance. The Private Hire Vehicle Licence Holder was not in attendance.

The Neighbourhood Enforcement Officer reported that the PHV Licence Holder was no longer at his address to serve notice but he had also been contacted by email to invite him to the meeting.

The Neighbourhood Enforcement Officer outlined the background to the case as follows:

- The Licence Holder held a Private Hire Vehicle Licence, but he had never held a PHD Licence;
- He had been the proprietor of 3 vehicles, but this was the only remaining vehicle with a licence which was due to expire on 12 December 2019;
- Neighbourhood Enforcement Officers had investigated the case following an email from a member of the public claiming that an unlicensed driver had been driving a licensed vehicle using a fake badge;
- Officers had been shown a copy of the paper licence and it appeared that it had been altered in order to obtain employment with a Taxi Operator;
- The Licence Holder had advised his employer that he was leaving the country and could not be contacted at either the address held by the Licensing Office or the address held by the employer;
- Officers had tried to invite him to interview but he didn't attend;
- The Committee was recommended to revoke the licence.

At this point in the meeting the Neighbourhood Enforcement Officer and PC Quinton withdrew from the meeting while the Committee considered whether to take any action as a result of the investigation. They returned to the meeting to hear the decision.

RESOLVED – that the Private Hire Vehicle Licence be revoked with immediate effect.

REASON:

In considering the evidence, on the balance of probabilities, the PHV Licence Holder could not be considered a fit and proper person to hold a licence under the provisions of 60(1)(c) of Local Government (Miscellaneous Provisions) Act.

Meeting ended at 2.51 pm

CHAIR _____



