

Bristol City Council

Minutes of the Public Safety and Protection

Sub-Committee A

19 February 2019 at 10.00 am



Members Present:- Councillor Christopher Davies, Councillor Richard Eddy (Chair), Councillor Sultan Khan, Councillor Mike Langley and Councillor Fi Hance for (Estella Tincknell)

Also in attendance: Councillor Olly Mead (for item 7), Corrina Haskins – Democratic Services, Wayne Jones – Neighbourhood Enforcement Officer (for item 7), Carl Knights – Licensing Officer and Shreena Parmar – Legal Services

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Estella Tincknell.

2. DECLARATION OF INTEREST

Cllr Khan declared that the applicant in agenda item 7, AMC, was known to him and approached him in relation to his application, but he had referred him to his local Councillor. He confirmed that in the event of a vote, he would not participate.

3. PUBLIC FORUM

There was no public forum.

4. 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.

5. 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.

6. TO SEEK CONSIDERATION OF AN APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER (PHD) LICENCE: AMC (AGENDA ITEM 7)

The Applicant and his representative were in attendance. Also in attendance were Civic Enforcement Officers.

The Applicant circulated additional information in support of his application.

Members raised the question of whether it would be appropriate to adjourn the hearing as the police body cam evidence was not available for consideration, but acknowledged that the Applicant wanted the application considered at the earliest opportunity and if an adjournment was agreed, an extra PSP Sub A Committee would be arranged to take place in the first week of March (subject to the evidence being available). The Neighbourhood Enforcement Officer undertook to contact the police to ensure this evidence would be available at the earliest opportunity and to make enquiries as to the PCSO's availability to attend the next hearing.

In response to a question about the possibility of issuing a temporary licence pending the outcome of a hearing, the Licensing Officer confirmed that Bristol City Council had taken the view that the issuing of temporary licences was not appropriate. The Committee agreed with this view and determined that a temporary licence would not be issued.

There was a short adjournment while the parties considered deferring the hearing.

RESOLVED –

- (1)** that the hearing be adjourned to enable the Committee to consider the police body cam evidence;
- (2)** that an additional Sub Committee A meeting be held in early March to determine the application, subject to the evidence being available.

7. TO SEEK CONSIDERATION OF AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER (PHD) LICENCE: SH (AGENDA ITEM 8)

The Applicant was in attendance, accompanied by the Chair of Bristol Blue Taxi Association.

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

- The Applicant had previously held a licence from at least 2004, when the database began, until 2016;
- On reapplying for a Licence in June 2017, the enhanced DBS information revealed a conviction for battery;
- Information from ACRO Criminal Records Office detailed further offences;
- The battery incident in 2016 should have been reported to the Licensing Office as a breach of licensing conditions;



- There was a complaint in 2008 which also wasn't declared at the time by the applicant and a future complaint by a cyclist in 2013;
- There were further breaches of licensing conditions, including his private hire vehicle being parked in a hackney carriage rank;
- There had been a delay in processing the application as the Licensing Office had requested a copy of the prosecution file in relation to the battery offence which had not been received until January 2019;
- The Licensing Policy stated that a period of between 5 - 8 years should elapse from the date of offence and an applicant being granted a new licence in the case of common assault (which included battery);
- In relation to the breach of licensing conditions, the 6 month period had now elapsed;
- The officers recommended refusal, but if the Committee was minded to grant a licence, the applicant would need to complete a medical check as well as a driving licence check.

The Licensing Officer and Legal Officer responded to questions of clarification as follows:

- "common assault" was a broad term encompassing an assault which is the threat of violence/unlawful force, and battery where unlawful force is applied;
- The 2002 incident involving the possession of cannabis did not show on the disclosure as it was an old offence which may have been filtered out;
- Incidents were included even when no further enforcement action was taken as this was important to determine whether a driver was a "fit and proper person"
- Although the time had passed in terms of some of the individual incidents, these incidents could be taken into account as a pattern of behaviour.

The Applicant made the following points in support of his application:

- He was sorry for the incidents and accepted he was responsible;
- He was happily married with 4 children;
- He accepted he should have contacted the police when he felt he was being threatened rather than confronting the individual directly;
- He circulated two character references about his work in the community;
- He was a good taxi driver and this had been his job for most of his life, he had tried to work in other trades but had not be able to secure a sustainable income.

In response to questioning, the Applicant:

- Clarified that the drug possession incident had occurred when he was younger and he had put this incident behind him;
- He had pleaded guilty to the battery offence on the advice of his solicitor; although he believed that he was acting in self-defence to protect himself from being poked in his eyes.



PM, on behalf of the Applicant, confirmed that he and other taxi drivers had also experienced threatening behaviour from the individual involved in the battery case with the applicant.

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

RESOLVED - that the application be REFUSED for the grant of a private hire driver (PHD) licence in that, in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act 1976, the Committee were not satisfied that the Applicant (SH) was a fit and proper person to hold such a licence for the following reasons:

- The Council's Policy guides that, in the case of convictions for common assault, there should be a period of between 5 - 8 years free of conviction from the date of offence and an applicant being granted a new licence;
- The Committee was not satisfied that he should be treated as an exception to Council policy without undermining it or the reasons that underlie it;
- The Committee recommended a further 2 – 5 year period before re-applying for a PHD licence.

8. TO SEEK CONSIDERATION OF AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER (PHD) LICENCE: SHOM (AGENDA ITEM 9)

The applicant was not in attendance and so it was agreed that the hearing be adjourned.

RESOLVED – that the hearing be adjourned in respect of the application for a Private Hire Driver licence (SHOM).

9. TO SEEK CONSIDERATION OF AN APPLICATION FOR THE GRANT OF A PHD LICENCE: MAA (AGENDA ITEM 10)

The hearing was adjourned at the request of the applicant who was unable to attend.

10. TO SEEK CONSIDERATION OF AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER (PHD) LICENCE: BD (AGENDA ITEM 11)

The Applicant was in attendance.

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

- The Applicant was previously licensed from at least 2004 (when the database began) until 2018;



- In September 2018, the Applicant advised the Licensing Office that he had been banned from driving for 6 months as a result of “totting up”;
- The Council’s Policy in cases of disqualification from driving was that 12 months needed to elapse between the applicant regaining their driving licence and applying for a Private Hire Licence, which would be January 2020 in the case of the applicant.

In response to questioning, the Licensing Officer confirmed:

- The Applicant did not advise the Licensing Office of previous points;
- There had been no complaints about the Applicant during the time he had held a PHD Licence.

The Applicant made the following points in support of his application:

- He clarified that all the convictions had taken place in 20 mph zones;
- The ban had left him in hardship as he had been living on savings;
- He undertook not to exceed the speed limit again;
- He confirmed that he had received his licence in 2002, had no complaints or accidents and lots of compliments and had been employed by South Gloucestershire Council to transport school children;
- He had been given conflicting advice at the Licensing Office and it was only on his fourth visit that he had been made aware that he needed to declare convictions.

In response to questioning, the Applicant confirmed:

- He had not driven during his six month driving ban;
- He had driven at 23-26 mph in the 20 mph zones in the St George area;
- He had attended a speed awareness course.

At this point in the meeting, the Applicant and the Licensing Officers withdrew while the Committee considered the application and subsequently returned to hear the decision.

RESOLVED

(1) that the application be REFUSED for the grant of a private hire driver (PHD) licence in that, in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act 1976, the Committee were not satisfied that the Applicant (BD) was a fit and proper person to hold such a licence for the following reasons:

- The Council’s Policy guides that, in the case of disqualification as a result of “totting up” there should be a period of one year between the reinstatement of the driver licence and the applicant being granted a new PHD licence;

(2) That, in view of the Applicant’s previous good record, the Committee would take a sympathetic view of him reapplying for a licence after a period of three months from the dates of this hearing (*to be determined by PSP Sub-Committee A in June 2019*).



11. TO SEEK CONSIDERATION OF AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER (PHD) LICENCE: SS (AGENDA ITEM 12)

The Applicant was in attendance.

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

- The Applicant had applied to renew his licence in January 2019 and declared that he had two endorsements on his licence, but he had breached the conditions of his licence by not declaring at the time of endorsements;
- The Applicant had a previous history of incidents including:
 - 2004 overcharging a customer;
 - 2005 driving a Hackney Carriage Vehicle without a licence;
 - 2005 driving while disqualified;
 - 2005 plying for hire;
 - 2013 plying for hire and driving while uninsured;
- The Applicant had been granted his Licence again in December 2016 and had since then received two endorsements and breaches of conditions.

The Applicant circulated a written submission in support of his application, in summary:

- He was a hard working person;
- He had worked as a Taxi driver for most of the last 17 years;
- He had good reviews from customers;
- He accepted he had made mistakes in getting speeding convictions.

In response to questioning, the Applicant:

- Confirmed that his speeding convictions happened in Ashley Down road and on the M32;
- Stated that he had reported his convictions to the Licensing Office via email (*after a short adjournment to find the email, it was noted that this was sent in September 2018 and as the convictions took place in March/May 2018, the Applicant was still in breach of conditions by not informing the Licensing Office immediately*).

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

RESOLVED - that the application be REFUSED for the renewal of a private hire driver (PHD) licence in accordance with Section 61 1 (b) of the Local Government (Miscellaneous Provisions) Act 1976, “any other reasonable cause” for the following reasons:

- The Applicant had committed a series of offences over a period of time which gave cause for concern about a pattern of behaviour;



- The Committee's overriding consideration was the safety of the public and as Applicant had received two further convictions since having his licence reinstated and breached his licensing conditions by not notifying the Licensing Office within the required timescale, the Committee could not be satisfied that he was a fit and proper person to hold a licence.

12. TO SEEK CONSIDERATION OF AN APPLICATION FOR THE GRANT OF A STREET TRADING LICENCE AT REAR OF EAST STREET AT THE JUNCTION WITH CHURCH ROAD, BEDMINSTER: MM (AGENDA ITEM 13)

The Licensing Officer confirmed that the outstanding issues in relation to this application had now been resolved and that consent had therefore been granted subject to the appropriate conditions.

The meeting ended at 14.18

