

# Bristol City Council

## Minutes of the Public Safety and Protection

### Sub-Committee B

26 March at 10.00 am



**Members Present:-** Councillor Carole Johnson, Councillor Steve Jones and Councillor Ruth Pickersgill (Chair)

**Also in attendance:-** Ashley Clark – Legal Advisor, Sarah Flower – Senior Licensing Officer, Corrina Haskins – Democratic Services, James Roberts – Licensing Officer, Jonathon Martin – Licensing Manager (for items 11&12) and Alison Wright – Neighbourhood Enforcement Officer (for items 11&12)

#### 1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Fi Hance.

#### 2. DECLARATION OF INTEREST

There were no declarations of interest.

#### 3. PUBLIC FORUM

There were no public forum statements.

#### 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. APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER LICENCE, AND THE RENEWAL OF A HACKNEY CARRIAGE LICENCE EE (AGENDA ITEM 7)**

The Applicant and supporter were in attendance.

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

- The Applicant was applying for a renewal of Private Hire Driver and Hackney Carriage Licences;
- The Applicant had held the Hackney Carriage Licence since 2002 and Private Hire Licence since 2014;
- When submitting his application for renewal he failed to declare 3 speeding offences from February 2017; April 2017 and March 2018;
- The Licensing office had advised him that this was false declaration and he confirmed he had not intended to hide the information;
- His previous history consisted of 5 traffic convictions and 2 enforcement complaints relating to the misuse of a blue badge and parking in a disabled bay.

The Licensing Officer drew the Committee's attention to the Policy Guidance relating to minor traffic offences and the legislation referring to a fit and proper person and recommended that the application be refused in line with Council Policy.

Following questions from the Committee, the Licensing Officer confirmed that the Council Policy referred to 12 or more points and the applicant only had 9, but he had also failed to declare the convictions as soon as possible in accordance with the conditions of his previous licences.

The Applicant presented his case as follows:

- He had been working for Bristol City Council since 2002 and this was the first time he had any issues with the Council;
- He struggled with literacy and so he needed someone else to help fill out forms;
- He was dependent on his licences to make a living to support his disabled wife and four children;
- He wife was disabled and that was why he had been using a blue badge and parked in a disabled bay;
- He accepted that he had made a mistake by speeding and not declaring the convictions.

The Applicant's supporter, a former colleague, confirmed that he had worked with him for five years providing a taxi service to special schools and that he had always been reliable and of good character.

In response to questioning, the Applicant confirmed that:

- he did not know that he had to inform the Licensing Office about his convictions;
- most of the speeding incidents had taken place in 20mph areas.



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

**RESOLVED** – that an application for a renewal of a Private Hire Driver and Hackney Carriage Licences be granted for the following reason:

The applicant had 9 points and not the 12 points as specified in the Council Policy and although he had not declared these convictions, the Committee understood that this was not intentional and may be due to his literacy difficulties. The Committee also took into account the Applicant's personal circumstances and that the use of a blue badge was to support his disabled wife. The Committee advised the Applicant to be careful in the future in avoiding further speeding convictions as if he were to receive another 3 points, this would need to be referred back to the Committee. He was also advised to take the responsibility for filling out renewal forms and declaring all convictions.

#### **7. APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE VEHICLE LICENCE SEEKING EXEMPTION FROM COUNCIL POLICY IN RESPECT OF TINTED WINDOWS AND DISPLAYING LICENCE PLATES YS (AGENDA ITEM 8)**

The Applicant and Councillor Shah were in attendance.

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

- The applicant was applying for the renewal of a Private Hire Vehicle Licence seeking exemption from Council Policy in relation to tinted glass and displaying licence plates;
- The rear tinted windows only allowed for 10% of light which was lower than the recommended amount for Private Hire Vehicles;
- He had first applied for renewal in 2017 and was granted a licence in 2018 which expired in 2019;
- An email had been received from the Applicant's employer, Tusky Chauffeurs, who confirmed that the Applicant would not be able to work for the company without the exemptions;
- The applicant had provided evidence of his executive work, but the issue was referred to the Committee as the percentage of executive work was determined to be 74% rather than required percentage of 75%.

The Licensing Officer drew the Committee's attention to the Policy Guidance and legislation referring to exemptions and recommended that the application be refused in line with Council Policy.

The Applicant presented his case as follows:

- He worked for Tusky Chauffeurs and accepted jobs from them without clarifying whether they were executive or not;



- He had undertaken school runs for the company, and although the Council considered that this was 26% of his total jobs, the work accounted for a smaller percentage of his work in terms of time and pay;
- He accepted that the exemptions were not suitable for school runs and would be happy just to undertake the executive work;
- He clarified that his car was designed with tinted glass and he had not modified the vehicle and that he had used the plates when undertaking school runs;
- His executive work involved chauffeuring celebrities and he needed the tinted glass and not to display the plates to protect their privacy.

In response to questioning the Legal Advisor confirmed that it was reasonable to consider the percentage of executive work in terms of nature of work and time involved rather than the number of jobs and that any exemption for tinted windows would need to ensure that school children or vulnerable adults would not be travelling in the vehicle. It was further clarified that the 75% specifically referred to the displaying of plates rather than tinted windows.

Cllr Shah spoke in support of the Applicant and the work he did in contributing to Bristol as a city of culture.

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

**RESOLVED** – that a Private Hire Vehicle Licence be granted with exemptions in relation to the displaying of plates and tinted windows, subject to the vehicle only being used for executive work and not being used for school runs or fares involving children or vulnerable adults.

## **8. APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER LICENCE DR (AGENDA ITEM 9)**

The Applicant, his brother and Cllr Shah was in attendance.

Cllr Shah confirmed that he was contacted by the Applicant and had reassured him that any decision would be made in a fair way based on consideration of the evidence.

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

- The Applicant had held a licence since January 2007 and the most recent licence had expired on 13 March 2019;
- On 13 February, the Applicant had declared 3 separate speeding offences resulting in him being awarded with 9 points;
- The Applicant had not informed the Licensing Office of the offences at the time of conviction which was a breach of the conditions of his licence;



- The Applicant had no previous history with the Council but did have historic convictions for driving offences.

The Licensing Officer drew the Committee's attention to the Policy Guidance relating to minor traffic offences and the legislation referring to a fit and proper person and recommended that the application be refused in line with Council Policy.

The Applicant outlined his case as follows:

- He did not know that he had to tell the Council about the speeding offences at the time of the convictions and had not read the conditions of his licence properly;
- He thought that he only had to declare the offences when renewing his licence;
- He found out from colleagues that he should have declared the offences immediately and as soon as he realised, he contacted the Licensing Office to inform them and he did so a month before his licence expired;
- He circulated character references in support of his application.

At this point in the meeting the Licensing Officers and Applicant and his supporters withdrew from the meeting while the Committee considered the application. Everyone returned to the meeting to hear the decision.

**RESOLVED** – that the application for the renewal of a Private Hire Driver Licence be granted for the following reason:

The Committee believed that the Applicant had been genuine in not knowing that he should have informed the Council of his speeding offences immediately, and noted that he had done so as soon as he was aware of this requirement. They advised him to be careful to not exceed the speed limit in future in the interest of public safety and his licence would need to be reconsidered if he were to get another 3 points.

## **9. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE SEEKING DEPARTURE FROM COUNCIL POLICY (OD) (AGENDA ITEM 10)**

The Applicant was in attendance.

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

- The Applicant was seeking departure from Council policy by requesting exemption from the Knowledge Test;
- The Applicant had applied for a licence in January 2019 and had taken, and failed, two tests;
- The Council's Policy Guidance stated that all applicants must take a Knowledge Test and therefore recommended that the application for an exemption be refused.

The Applicant outlined his case as follows:



- In 2017 he had given up his job to become a children's author and had secured part time work in schools, but wanted to supplement his income by working for UBER which he could fit around his other work;
- He had a good knowledge of Bristol and had lived there all his life;
- He had invested in a car as he did not think there would be any barriers to him working for UBER as he had a full clean driving licence and a knowledge of Bristol;
- He had completed the gold standard course and a health check and felt that the work he did with children and schools would be an asset to his application;
- He was only interested in working for UBER which used an app and navigation system, rather than knowledge of local streets, and it would not be possible to carry out jobs if the navigation system wasn't working;
- He had previously worked in Bristol as a van driver and so was familiar with driving around the city;
- He would be happy if his licence was granted on condition that he only worked for UBER.

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

**RESOLVED** – that the application for a Private Hire Licence seeking an exemption from the knowledge test be refused for the following reason:

The Committee was sympathetic to the Applicant and his situation, but did not consider that his case to work exclusively for UBER constituted exceptional circumstances to be exempt from undertaking the Knowledge Test and depart from Council Policy and to do so would set a precedent for other applications.

#### **10. TO CONSIDER THE ABILITY OF A LICENSED PRIVATE HIRE DRIVER TO BE CONSIDERED A FIT AND PROPER PERSON (NQ) (AGENDA ITEM 11)**

The Licence Holder and a Witness and her partner were present.

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

- A complaint had been received by a member of the public in relation to a licensed Private Hire Driver and this had been investigated by the Neighbourhood Enforcement Office and a witness statement had been taken;
- The Licence Holder had been granted a licence in December 2016 and this was due to expire in 2019;
- The Licence Holder had failed to attend interviews with the Neighbourhood Enforcement Team in January, due to illness, and in February, due to getting the date wrong.

The Witness confirmed that she had nothing to add to her written statement.



The Licence Holder outlined his case as follows:

- He did not believe that he had been driving the car at the time of the incident. He had no recollection of the incident and did not match the description of the man described by the witness as he did not have straight hair and always had a beard;
- He suggested that his brother may have been driving the vehicle as he often drove the vehicle and the description better suited him.

In response to questioning, he confirmed:

- He had not spoken to his brother about the incident;
- His brother did not have a taxi licence.

In response to questioning, the Witness confirmed that the man driving the taxi did look like the licence holder, but he was clean shaven and could have been his brother.

In response to questioning the Neighbourhood Enforcement Officer confirmed that the Licence Holder had been identified through the taxi plates.

At this point in the meeting, the Witness and her partner withdrew.

The Licensing Manager reported additional information relating to the Licence Holder following a police disclosure from Hertfordshire police that, on 14 February 2018, he had been arrested for the possession of crack cocaine; his vehicle had been seized and he had been released pending an investigation.

The Licence Holder responded that he had been working in Hertfordshire for UBER when he had been followed by the police and on stopping; his passenger had fled the vehicle. He said that the drugs belonged to the passenger who he had unknowingly picked up from the address of a known drug dealer.

The Licensing Manager questioned whether the Licence holder could have been working for UBER at that time, but it was agreed that the seized vehicle had been licensed by Bristol City Council and that the incident had not been reported to the Council's Licensing Office.

At this point in the meeting the Neighbourhood Enforcement Officer and Licence Holder withdrew from the meeting while the Committee considered the application. Everyone returned to the meeting to hear the decision.

**RESOLVED** that the licence be revoked on the grounds contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976, namely "any other reasonable cause", for the following reason:

The Committee found it more likely than not that the Licence Holder's brother was driving his taxi at the time of the complaint but were concerned that he had allowed an unlicensed driver to drive his licensed vehicle. They were concerned that he had failed to



notify the Council that he had been arrested on suspicion of being concerned in the supply of a controlled drug- class A- Crack Cocaine, and that his Bristol licenced vehicle had been impounded by the police in connection with this investigation. The Committee, therefore, could not be satisfied that the Licence Holder was a fit and proper person.

**11. TO CONSIDER THE ABILITY OF A LICENSED PRIVATE HIRE DRIVER TO BE CONSIDERED A FIT AND PROPER PERSON (IR) (Item 12)**

The License Holder and two witnesses were in attendance for the item.

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

- The Neighbourhood Enforcement Team had brought this to the Committee to consider if the Licence Holder could be considered a fit and proper person after an investigation into 3 separate complaints about his conduct;
- Between 18 January 2019 and 4 February 2019, 3 separate complaints had been received 1) Road Rage; 2) Double Parking; 3) Driving without care and attention;
- The complaints had been investigated and witness statements taken;
- The Licence Holder had been interviewed under caution on 18 March where he had responded to the allegations as follows:
  - 1 Road Rage: he could not initially recall the incident until reminded but denied aggression, getting out of his vehicle or swearing;
  - 2 Double Parking: he had double parked, which was common place in this section of the road and had fallen asleep in his house and was not aware that someone needed to move their vehicle until he received a call from his company. He had apologised to the person concerned;
  - 3 Driving without due care and attention: He denied using a mobile phone while driving but said he had a sandwich in his hand and that the cyclist appeared out of nowhere and he swerved to avoid him.
- Following the investigation, there had been a further 3 complaints about his conduct, which had not yet been investigated but the complainants had been spoken to by the Neighbourhood Enforcement Team;
  - 1 Plying for hire/overcharging/smoking during an incident from Prince Street Bristol to Bristol Airport;
  - 2 Parking in an area of road closure and abuse of a traffic management worker who challenged him;
  - 3 Allegation of dangerous driving in Hartcliffe.

Two Witnesses were in attendance and gave evidence as follows:

Witness One:

- He was travelling in North Street behind the Licence Holder who stopped at a zebra crossing to talk to someone;
- After a minute and a half he tooted the Licence Holder at which point the Licence Holder swore at the witness;



- Following the incident the Licence Holder started driving slowly and braking erratically;
- The Licence Holder pulled over and got out of his car and approached the witness swearing at him and saying that he would “chop him up.”

Witness 2:

- He was cycling on the roundabout approaching Bristol Bridge and was aware that the Licence Holder had not seen him;
- The Licence Holder had started accelerating and the Witness buffered to the right and slowed down;
- He thought the Licence Holder was holding a mobile phone and that he was speeding and distracted and did not see the Witness until he approached him further in the journey and told him to get off his phone.

The License Holder responded as follows:

- Road Rage Incident: He denied getting out of his car and saying that he would “chop him up” to the complainant;
- Driving without due care and attention incident: He denied speeding and said he was “eco mode” and denied that he was on his phone, but said he had a sandwich in his hand;
- Double Parking incident: he moved his car when he got a phone call asking him to do so and apologised to the woman concerned;
- Plying for hire/overcharging/smoking during an incident: he denied smoking as he didn’t smoke and said he gave the passenger a free lift to the airport as he was going that way;
- Parking in Road Closure: he admitted parking but denied swearing and being abusive to the complainant and said he had a witness to confirm this.
- Dangerous driving: he said he could not recall the incident.

At this point in the meeting the Witnesses and Neighbourhood Enforcement Officer left the meeting.

The Licensing Manager reported further information as a result of a police disclosure that the Licence Holder was being investigated in relation to an allegation of sexual assault and this was relevant to the Committee in determining if the Licence Holder was a fit and proper person.

The Licence Holder confirmed that he was aware of the allegation but denied the incident and was awaiting an update from the police.

At this point in the meeting, the Neighbourhood Enforcement Officer and Licence Holder withdrew from the meeting while the Committee considered the evidence.

Everyone returned to the meeting to hear the decision.



**RESOLVED** – that the Licence be revoked with immediate effect in the interests of public safety on the grounds contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976, namely “any other reasonable cause”, for the following reason:

The Committee considered the 6 complaints about different issues which had been received from different members of the public in a short time, together with information regarding an ongoing police investigation. These demonstrated aggressive language and threatening behaviour, poor driving standards and an alleged sexual assault. The Committee was therefore not satisfied that the Licence Holder was a fit and proper person to hold a licence.

### **12. APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER LICENCE AEAE (Item 13)**

Consideration of the application was deferred pending the outcome of a court case.

### **13. APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER LICENCE AA (Item 14)**

The Applicant was in attendance.

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

- The application was for the renewal of Private Hire Driver Licence and the Applicant had held a licence since 2011;
- Following a DVLA check conducted by the Licensing Office as part of the renewal process, it was found that the Applicant had a speeding offence in May 2018 which he had failed to declare at the time which was a breach with the conditions of the licence;
- The Applicant had no previous history with the Council;
- The DBS application was still outstanding;
- In terms of Policy Guidance which refers to major, minor and hybrid offences, this was considered hybrid as the Applicant had been awarded with 6 points.

The Licensing Officer drew the Committee’s attention to the Policy Guidance relating to traffic offences and the legislation referring to a fit and proper person and recommended that the application be refused in line with Council Policy.

In response to questioning, it was noted that the DBS had been submitted on January 25<sup>th</sup> and it was not unusual for it still to be outstanding after this timescale.

The Applicant outlined his case as follows:

- He was sorry for not declaring the incident, he did not realise that he should have done so and had not read the conditions of the licence carefully;
- He confirmed that he had been driving at 70mph on a motorway where the speed limit was 50mph and that on receiving notification of the offence, he had opted to



attend a speed awareness course and receive 3 points, but his reply had not been received and as a consequence he had to pay a higher fine and receive 6 points;

- He was a family man with 3 children and had never been in this situation before;
- He was concerned about the situation and the possibility of not getting his licence renewed as he had a contract with a rental company and needed to pay £200 a week.

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

**RESOLVED** – that application for a renewal of a Private Hire Driver Licence be granted for a three month basis, pending DBS clearance, and if there were no issues arising from the DBS, a full licence be granted, for the following reason:

The Committee accepted that the Applicant had been genuine in not knowing that he should have informed the Council of his speeding offence immediately, and noted that he had declared it when applying to renew his Licence. They also noted that he would have 3, rather than 6 points, if his letter had been received and this would be classed as a minor offence. They advised him to be careful to not exceed the speed limit in future in the interest of public safety.

The meeting ended at 3.34 pm

