

Bristol City Council

Minutes of the Public Safety and Protection

Sub-Committee A

2nd July 2019 at 9.30 am



Members Present:- Councillors Tom Brook, Richard Eddy (for Steve Jones), Ruth Pickersgill (Chair) (part) and Estella Tincknell (Chair - part)

Also in attendance:- Abigail Holman (Licensing Officer), Carl Knights (Licensing Officer), Norman Cornthwaite (Democratic Services), Lynne Harvey (Legal Advisor) and Alison Wright (Neighbourhood Enforcement Officer) for item 9.

1. Apologies

Apologies were received from Councillor Jones, substitute was Cllr Eddy.

2. Declarations of Interest

There were none.

3. Public Forum

Nothing was received.

4. Minutes of Previous Meeting held on 11th June 2019

Resolved – that these be agreed as correct record of the Meeting and signed by the Chair.

5. 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.

6. 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.

7. To consider whether to take action in relation to Street Trading Consent(s) at Land to South West Corner of Playground Greville Smyth Park (SL) and to consider whether to take action in relation to Street Trading Consent(s) at Prince Street M-Shed (RL) (Agenda Item No. 8)

The Licensing Officer advised the Members of the Committee that she had been informed by their legal representative that neither of the Consent Holders would be in attendance. They had confirmed via their solicitor that they were content for the meeting to go ahead in their absence. She further advised that the legal representative had stated that should the Consents be revoked the relevant employees would lose their jobs.

The Licensing Officer then introduced the report relating to Greville Smyth Park (SL) and summarised it for everyone highlighting that documents submitted including the application form and insurance form are in the name of SL and the trading name of the business, which is not a registered company. This indicates that the business and SL are clearly linked, in spite of him being made the subject of a Slavery and Trafficking Risk Order (STRO) by Avon and Somerset Magistrates Court. This order in general prevents S L from being involved with any recruitment, management, payment, and accommodation of staff.

The Licensing Officer then introduced the report relating to Prince Street M Shed (RL) and summarised it for everyone highlighting that documents submitted including the application form and insurance form are in the name of SL and the trading name of the business, which is not a registered company. This indicates that the business and SL are clearly linked, in spite of him being made the subject of a Slavery and Trafficking Risk Order (STRO) by Avon and Somerset Magistrates Court.

The Members noted that although RL had been acquitted, the CPS had considered that there was enough evidence to potentially secure a conviction.

Decision

Members considered very carefully all of the written and verbal evidence presented to them.

They noted that SL's name appears on all of the documents relating to the business indicating that he continues to play an active part in it even though he has been made the subject of a Slavery and Trafficking Risk Order (STRO) by Avon and Somerset Magistrates Court preventing him from being involved with any recruitment, management, payment, and accommodation of staff. No evidence was presented to indicate that he is no longer active in the business.



The Committee therefore decided to revoke the Greville Smyth Park Consent held SL. The Committee also decided to revoke the Prince Street M Shed Consent held by RL.

Resolved – that the Street Trading Consent(s) at Land to South West Corner of Playground Greville Smyth Park held by SL be revoked. The Committee noted that on 8 May 2019 SL was made the subject of a Slavery and Trafficking Risk Order (STRO) by Avon and Somerset Magistrates Court. The STRO was applied for by Avon and Somerset Constabulary, and was further to a court case in which he had deemed unfit to stand trial because he had been diagnosed with dementia.

Under the Council’s Street Trading Policy, the Council is entitled to take into account the suitability of the applicant as well as having a wide discretion when deciding whether or not to grant or revoke a Street Trading Consent. The Committee determined that to allow SL to continue to hold a Street Trading Consent would undermine the purpose of the Court Order. Given these circumstances, the Council could no longer be satisfied that SL was a suitable person to hold such a consent.

Resolved - that the Street Trading Consent(s) at Prince Street M-Shed held by RL be revoked. The Committee noted that on 8 May 2019 SL was made the subject of a Slavery and Trafficking Risk Order (STRO) by Avon and Somerset Magistrates Court. The STRO was applied for by Avon and Somerset Constabulary, and was further to a court case in which SL was deemed unfit to stand trial because he had been diagnosed with dementia.

The Committee considered the documents provided when the application was made by RL for both the tender, and the Street Trading Consent.

With respect to the documents submitted for the tender, it was noted that the majority were in the name of SML and S, a trading name of the business, but not a registered company. Public Liability Insurance is in the name of SM and his wife trading under the business name. As part of the application a letter regarding the business and trading style was submitted.

The application for street trading that RL made to the Council on 15 April 2019 contained a section for individual applicants, and one for non-individual applicants. Both sections of the form were completed, with the individual being named as RL, and the non-individual as SML and S. The Public Liability Insurance provided with the street trading application was the same as that provided with the application for tender.

The Committee determined that based on the information submitted, SL is clearly involved with the running of the business known as SML and S and that the business of RL could not be sufficiently separated from this.



Under the Council's Street Trading Policy, the Council is entitled to take into account the suitability of the applicant as well as having a wide discretion when deciding whether or not to grant or revoke a Street Trading Consent. It was noted that although RL was acquitted of the charges of modern slavery, due to the seriousness of the allegations and that it was determined that his business was inextricably linked to that of SML & S, the Committee were sufficiently concerned as to RL's suitability to continue to hold a Street Trading Consent.

8. To consider the ability of a licensed Hackney Carriage Driver (HCD) to be considered a fit and proper person to hold a licence following on from an investigation by the Neighbourhood Enforcement Team (NET) – SS (Agenda Item No. 9)

SS was in attendance, accompanied his solicitor and an observer.

The complainants/witnesses KF and GT were in attendance.

The Neighbourhood Enforcement Officer introduced the report and summarised it for everyone. In response to questions, she clarified that in response to a previous complaint about SS no further action was taken and that in relation to this case there was no transcript of the interview given by SS available.

GT confirmed his written statement. In response to questions from Members he confirmed that he and his friends were not aggressive or argumentative. There had been an argument about the fare and the use of the meter. His friend W had been talking to SS with his head partially in the window when SS had driven off with his head in that position. He could not recall what words SS used but he had been shouting and aggressive.

GT then answered questions from SS's solicitor highlighting the following:

- Although the incident had taken place in February and he had not made a statement until March, he had kept notes of the incident on his phone (The Neighbourhood Enforcement Officer confirmed that she had formatted the statement on the form but that all of the wording in the statement belonged to GT.)
- He is still in contact with his friends
- Prior to the incident they had tried to call an UBER but none were available
- When they asked SS for a price for the 3 stops he quoted £30 - £10 each
- When they challenged him about the price he dropped it to £25



- When they asked for his Badge Number he refused to provide it
- His voice was raised and he was aggressive
- GT had drunk 3 pints of beer throughout the evening

KF confirmed her written statement. She also confirmed that she had not drunk alcohol and had heard the conversation GT had with SS who was aggressive.

KF then answered questions from SS's solicitor highlighting the following:

- Her statement was made on 13th June 2019
- She had spoken to her friends about what had happened
- GT had spoken to the driver but he was not drunk
- She understood what the driver was saying
- GT had asked him to use the meter and he had refused
- She heard SS tell GT to Shut Up
- There had been no argument with SS

SS then put his version of events highlighting the following:

- He had been stopped and was asked for a price
- He stated that it would be between £15 and £25 for the 3 stops but that it would be on the meter
- The passenger he was in conversation with had become aggressive and abusive; he had feared for his safety
- He decided to drive off; the passenger he was speaking to did not have his head in the window

The Neighbourhood Enforcement Officer clarified that they had initially taken a statement from GT. KF had subsequently advised that she was willing to provide a statement and attend the Committee Meeting. W had not been asked to provide a statement.

The Legal Advisor reminded the Committee that it must make a decision on which version of events it believes on a balance of probabilities. If the complaint is made out, then the Committee must decide what action – if any – should be taken in regard to SS's licence. The starting point in accordance with the Committee's Policy would be a suspension of his Licence for a period of 6 months. The Committee may also take into account the possible aggravating features for alleged aggressive behaviour and driving away.

SS's solicitor summed up his case highlighting the following:

- The complaint relates to 3 serious matters – Refusing a fare; Overcharging and Aggressive behaviour



- The Committee must be satisfied the case is made before it can consider any sanction against SS
- There is a clear dispute over what happened and what was said
- SS considers that he refused the fare for good reason

SS, his solicitor, the observer, the witnesses and the Neighbourhood Enforcement Officer left the room while the Committee made its decision.

Decision

The Members considered very carefully all of the written and verbal evidence presented to them.

The Members were of the view that the evidence of GT and KF was essentially truthful and that their version of events was more credible than SS's.

On a balance of probabilities, SS did attempt to overcharge the complainants and refused to use the meter. There was also neglect to take a fare without reasonable excuse. The Committee were also of the view that SS had driven away whilst one of the complainant's still had his head partially in the car via an open window.

The Members also found that SS behaved aggressively towards the potential passengers but as it is not clear what language was used, they do not accept he was abusive towards them. However, the conduct in question still falls well below the standard the Council is entitled to expect from its licensees.

They therefore considered that there was "reasonable cause" to take action on the licence.

The conduct is akin to offences under the Town Police Clauses Act 1847 which under the Council's policy a period of 6 months suspension is recommended. The Committee do not consider that there are any exceptional circumstances such to merit a departure from its Policy in this case. Therefore the Members decided that a suspension of 6 months is a consistent and proportionate response in this case.

Everyone returned to the room to hear the announcement of the decision.

Resolved – that the Hackney Carriage Driver's Licence held by SS be suspended for a period 6 months on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 namely any other reasonable cause.

Councillor Pickersgill left the Meeting and Councillor Tincknell took the Chair.

9. Application for the Renewal of a Private Hire Driver's Licence and an Existing Private Hire Vehicle Licence - GA (Agenda Item No. 10)



GA was in attendance, accompanied by his solicitor.

The solicitor requested an adjournment of the hearing on the basis that he was not aware that the complainant had agreed to speak to the Committee and he had therefore not prepared for this event. It was pointed out that paragraph 10 of the report had made this clear and that GA had been provided with a copy of the report. The solicitor stated that he had not had sight of the report and that given the seriousness of the allegations, the request for an adjournment was reasonable. Further enquiries needed to be made of the Police. He also needed to know what the complainant was going to say as he had no idea what case was to be put against his client.

Following consultation with Officers the Committee agreed that consideration of this item should be deferred until the Meeting on 13th August 2019.

The solicitor then requested that, since the Licence held by GA had expired on 16th June 2019, the Council issue him with a temporary Licence pending the outcome of this case.

The Committee were reminded that it would have to be satisfied that GA is a fit and proper person to approve the issue of even a temporary Licence.

The Members agreed that they were not in a position to decide on this. The Committee therefore decided that consideration of the licence should wait until the adjourned hearing.

Resolved – that consideration of this case be deferred until the Meeting on 13th August 2019; and

10. Request for the Grant of a Hackney Carriage Vehicle Licence Seeking Departure from Council Policy - AM (Agenda Item No. 11)

AM was in attendance.

The Licensing Officer introduced the report and summarised it for everyone.

AM put his case highlighting the following:

- He had not been working in March 2018 when his previous vehicle was due for renewal
- He wants to get a Euro 6 vehicle
- A ULEV vehicle would be a large investment and he now works fewer hours



The Licensing Officer and Applicant withdrew from the meeting while the Committee considered the application.

Decision

The Members considered very carefully all of the written and verbal evidence presented to them.

They considered that, taking account of his circumstances, it would be appropriate in this case to make an exception to their Policy and allow AM to acquire and licence an appropriate Euro 6 vehicle. The vehicle should be petrol driven and he should be allowed a maximum of 6 months to acquire the vehicle. Officers will have delegated authority to agree the exact model.

Everyone returned to the meeting to hear the decision.

Resolved – that AM be permitted to acquire a suitable Euro 6 petrol driven vehicle within 6 months and that Officers be given delegated authority to agree the exact model and issue a Licence for the vehicle.

The meeting ended at 2.30 pm

Chair

