

Bristol City Council

Minutes of the Public Safety and Protection

Sub-Committee A

13 August 2019 at 10.00 am



Members Present:- Councillors Tom Brook, Steve Jones and Ruth Pickersgill (Chair)

Also in attendance:- Corrina Haskins (Democratic Services), Abigail Holman (Licensing Officer for items 8 & 9 and Licensing Policy Advisor for items 10-12), Carl Knights (Licensing Policy Advisor for items 8 & 9 and Licensing Officer for items 10-12) and Shreena Parmar (Legal Advisor).

1. WELCOME AND SAFETY INFORMATION

The Chair drew attention to the safety information.

2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Lucy Whittle.

3. DECLARATION OF INTEREST

There were no declarations of interest.

4. PUBLIC FORUM

There were no public forum statements.

5. MINUTES OF THE PREVIOUS MEETING

RESOLVED – that the minutes of the meeting of 2nd July 2019 be confirmed as a correct record and signed by the Chair.

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. REPORT OF AN APPLICATION FOR THE RENEWAL OF A PRIVATE HIREDRIVER LICENCE AND AN EXISTING PRIVATE HIRE VEHICLE LICENCE GA (AGENDA ITEM 8)

This application was adjourned at the request of the Applicant's Solicitor pending further information and would be considered at the next scheduled meeting on 17 September 2019.

9. REPORT TO CONSIDER AN APPLICATION FOR THE GRANT OF STREET TRADING CONSENT(S) AT THE FOLLOWING LOCATION: BUSH CORNER, NARROW QUAY DA (AGENDA ITEM 9)

The Applicant was in attendance.

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

- This was an application for the grant of a Street Trading consent at Bush Corner;
- The application was deferred from 9th July as the applicant was unable to attend;
- The location was designated as a consent street for the purpose of street trading legislation and was recently subject to a concession which was managed by the Council's Parks and Markets Teams;
- The applicant had won the tender for the concession and was now applying for a street trading licence to trade lawfully;
- The Applicant had a conviction in November 2018 for trading in a prohibited street in Broadmead and had failed to declare the conviction in his application;
- Since the conviction, there had been suspected illegal trading practices linked to the van registered in the name of the applicant;
- The Committee was required to consider the suitability of applicants in determining an application and in view of the conviction which had not been spent; it was recommended that the application be refused.

The Applicant presented his case as follows:

- He apologised for his case being brought to the Committee;
- The conviction had arisen as he had been looking for a site in Broadmead for his son to trade;

- He felt he had been let down by Bristol City Council and had been misinformed by John Hirst that he would get permission from Cabot Circus to trade on a site near British Homes Stores;
- Before the court case he had been trading for 35 years without any trouble;
- He had consents from other Councils, including Sedgemoor Council where he currently traded;
- He had inherited the business from his father and when his son left school in 2017, he had decided to join the trade. The Applicant had got a loan for £25,000 to buy his son a van on the understanding that he would have permission to trade in Broadmead;
- After 2 months of trading on the site he was told that he could no longer trade there and was advised verbally by an employee of Cabot Circus that he could trade on an alternative site by Sainsburys;
- He traded on the site near Sainsburys on the understanding that he had verbal permission;
- He was advised to plead guilty in court to trading on the site without consent as he had no written permission from Cabot Circus;
- He had applied for the concession in Bush Corner for his son but had applied in his own name as his son would not be 18 until October 2019;
- He had failed to declare his conviction in making the application by mistake;
- His son needed the pitch to pay off the £25,000 loan for the van.

In response to questions, the Applicant confirmed:

- His son was currently trading on the Bush Corner site as he believed that he could do so pending a decision on the licence and he was aware that other street traders were told they could do so by City Council officers while awaiting a licence;
- He had not been trading at Cabot Circus since the court conviction.

Further to questioning, officers clarified that:

- John Hirst was Chief Executive of Destination Bristol and was not employed by Bristol City Council;
- The application had been made in the name of the Applicant and had to be considered as his application even if it was intended for his son;
- Even though the application referred to the trading name of the Applicant's son's company, as it was not a limited company the application had to be considered in the name of the individual, i.e. the Applicant DA;
- The minimum age for applying for a Street Trading Consent was 17 and therefore the Applicant's son was old enough to apply in his own name;
- The consent could not be transferred and a fresh application would need to be made;
- The Applicant had been advised in an email from Cabot Circus that he could not trade outside Sainsburys without the correct permissions;

- The Committee were not able to comment on the decision of the Court, but could only consider the conviction in relation to the Applicant being a suitable person to hold a Street Trading Consent;
- The Applicant could not trade at Bush Corner if he did not have the Street Trading Consent even if he had won the tender for the concession. If other Street Traders were trading without the necessary permissions then this activity was illegal.

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

RESOLVED –

That the application be refused for the following reason:

In accordance with the Council's Street Trading Policy, the applicant could not be considered a suitable person due to his conviction for illegal trading.

The Committee noted that the Applicant wanted the consent for his son to trade, but Members could only consider the application before them and recommended that the Applicant's son speak to the Parks and Markets Team about the concession and submitting an application in his own name. Any application would be considered in the usual way and the Committee could not offer any reassurance that the application would be granted.

10. REPORT OF AN APPLICATION TO RENEW A PRIVATE HIRE DRIVER LICENCE HH (AGENDA ITEM 10)

The Applicant was in attendance.

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

- The Applicant's licence was due to expire in October, but he had applied to renew it for a 2 month period as he was planning to retire in January 2020 when his vehicle licence expired;
- The Applicant had asked for an exemption from a new Disclosure and Barring Service (DBS) Check, Medical Examination Report and DVLA Mandate in view of him only requiring a licence for an additional 2 months after these checks were due;
- Such an exemption would be a departure from Council Policy which required applicants to undertake these tests to allow a judgement to be made on whether an applicant was a fit and proper person in accordance with the legislation.

In response to a question about what would happen if an incident occurred during the two months and the Committee had agreed to the exemptions, the Legal Advisor stated that there was a risk to the Council of allowing a departure from its policy.

The Applicant presented his case as follows:

- He referred to his email sent to the Licensing Manager, which asked for the 2 month extension to his PHD licence without the expense of undertaking the checks, in view of the fact that he had 30 years' service as a licence holder with Bristol City Council without any issues.

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

RESOLVED – that the application for the renewal of a Private Hire Licence for a two month period with an exemption from undertaking a new Disclosure and Barring Service (DBS) Check, Medical Examination Report and DVLA Mandate be **REFUSED** for the following reasons:

The Council's Policy required Private Hire Drivers to undertake these checks to allow a judgement to be made on whether an applicant was a fit and proper person in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

While noting the Applicant's good record as a licence holder, the Committee did not agree that this was an exceptional circumstance for allowing a departure from Council Policy.

11. REPORT OF AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE LB (AGENDA ITEM 11)

The Applicant was in attendance.

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

- The Applicant's Licence had recently expired but the application was being treated as a renewal;
- The Applicant had suffered a stroke and transient ischaemic attack (TIA) in March 2019 and in accordance with Council Policy and to meet the DVLA Group 2 standard of fitness to drive, a licence should be refused or revoked for 1 year after the medical issue;
- In the case of the Applicant, the one year period would expire on 9 March 2020.

The Applicant outlined his case as follows:

- Although he was disappointed that he could not return to work sooner, he accepted the Council Policy and DVLA guidance and asked for the support of the Licensing Office to ensure that he could return as soon as the one year period expired.

The Licensing Officer undertook to provide the Applicant with all the information required to enable a new application to be considered at the earliest opportunity with a view to him returning to work as soon as possible after 9 March 2020.

RESOLVED – that the current application be **REFUSED** for the following reason:
A period of one year had not expired since the Applicant’s medical issue and therefore to grant a licence would be a departure from Council Policy and would not meet the DVLA Group 2 standard of fitness for drivers.
The Applicant would be given advice by the Licensing Office on how to ensure he could return to work as soon as possible after the one year period expired.

12. REPORT OF AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE MD (AGENDA ITEM 12)

The Applicant was in attendance with a translator, Councillor Jama and a supporter from the Bristol Somalian Forum.

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

- The Applicant had applied for a PHD Licence;
- The DBS check had revealed a spent conviction in 2005 relating to an immigration offence and a further conviction in 2016 relating to the importation and possession of drugs;
- A previous application in 2017 had been refused by the Committee;
- The Applicant had not declared having been known under a different name but the convictions recorded different spellings of his name;
- The Council’s Policy in relation to criminal behaviour for drug related issues was that an application should be refused until five years after the date of the last conviction. In the case of the Applicant this would be November 2021.

The Applicant outlined his case as follows through his interpreter:

- He was hoping to get his licence so he could earn his living and support his family;
- He was sorry for what happened, had learnt from his mistakes and wanted to move on;
- He was trustworthy and was no risk to the public.

In response to questioning from the Committee, the Applicant confirmed:

- The incident had happened at a difficult time in his life following the death of his father;
- He had been caught travelling from Nairobi to Dublin in possession of the drug Khat;
- He was not aware that the drug was illegal in England or Ireland as its use was normal in his community;
- He had previously held a licence for 10 years and had been trusted with transporting children;
- He had not driven as a PHD since June 2017 when his previous licence expired.

The Licensing Officer confirmed that Khat had become illegal in the UK in 2014.

The representative from the Bristol Somalian Forum spoke in support of the Applicant's character and confirmed that he was a hardworking member of the community and wanted his licence back so he could provide for his family.

Councillor Jama spoke in support of the Applicant, a member of her constituency, and raised the following points:

- he was a very helpful and positive person with a good reputation in the local community;
- He was very remorseful about the incident which had tarnished his life and he had already paid the price for the crime;
- She considered 5 years to be excessive in view of the fact that the drug involved was Category C, Khat, which had been legal in England until 2014 and did not compare with other drugs such as Heroin and Crack Cocaine;

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

RESOLVED –

- (1) that the application for the grant of a Private Hire Driver Licence be **APPROVED** for the following reasons:

The Committee agreed to make an exception to the Council Policy in relation to criminal behaviour for a drugs related offence and grant a licence before the 5 years had expired as:

1. The Applicant had been remorseful;
2. Khat was a Category C drug and had been legal in the UK until 2014 and it was possible the Applicant was not aware it was illegal when he committed the offence;
3. The Applicant was not considered to be a risk to the safety of the public;
4. The Applicant had already spent 2 years without a Licence.

- (2) That the granting of the Private Hire Drivers Licence be subject to:

The Applicant undertaking the following fit and proper person checks prior to a licence being issued;

- (i) Group 2 medical examination report;
- (ii) Gold Standard Course;
- (iii) DVLA Mandate and single use DVLA check code;
- (iv) The Knowledge Test

A written warning on the Applicant's file to say that any future issues would need to be brought to the attention of the Committee.

The meeting ended at 2.05 pm

CHAIR