

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 25th May, 2017, 10.00 am

Councillors: Les Kew (Chair), Deirdre Horstmann and Caroline Roberts

Officers in attendance: Alan Bartlett (Public Protection Team Leader), John Dowding (Senior Public Protection Officer), Shaine Lewis (Principal Solicitor), Enfys Hughes and Ian Nash (Public Protection Officer (Licensing))

1 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

2 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

3 DECLARATIONS OF INTEREST

There were none.

4 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

5 MINUTES OF PREVIOUS MEETING - 16TH MARCH 2017

These were approved as a correct record and signed by the Chair.

6 LICENSING PROCEDURE

The Chair drew attention to the procedure to be followed for the following items.

7 EXCLUSION OF THE PUBLIC

The Committee having been satisfied that the public interest would be better served by not disclosing relevant information **RESOLVED** in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972 that the public should be excluded from the meeting for the next items of business and the reporting of the meeting be prevented under Section 100A(5A), because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Schedule 12A of the Act, as amended.

8 CONSIDERATION OF BEHAVIOUR:- MR KR

Mr KR confirmed that he had understood the procedure to be followed for the hearing.

The Senior Public Protection Officer summarised the report and provided Members with a video of the recent incident which they all watched.

Mr KR stated his case and was questioned by Members.

Following an adjournment the Sub-Committee:

RESOLVED that Mr KR receive a stern warning as to his future conduct and behaviour as licensed drivers should act both lawfully and as ambassadors for the City and District.

Reasons for the decision

Members have had to determine what action to take, if any, against the holder of a combined Hackney Carriage/Private Hire Driver's Licence having received complaint about his conduct. In doing so they have taken account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Members gave careful consideration to the licensee's oral representations, his written statement and balanced these against his disciplinary record as a licensed driver and the information contained in the complaint which included video evidence. Accordingly Members had to decide whether or not the licensee continued to be a fit and proper person to hold a licence taking into account all the circumstances which included the current complaint, his driving history and character. Members further noted that case law states the economic wellbeing of the licensee is irrelevant and that it is the protection of the public that is of the utmost importance.

Members noted that Mr KR had been licensed as a Hackney Carriage/Private Hire Driver since 1997. In that time the Licensing Office has received three complaints. The first matter was on 4 June 2014 and related to him starting the taxi metre before making contact with the customer and being aggressive and abusive towards her. The second, on 23 October 2015, related to a complaint that he drove his vehicle towards a person crossing the road shouting "why don't you get out of the fucking road." The current matter involved a cyclist in George Street on 25 November 2016. A video taken at the time shows the licensee shouting 'move, move or get run over' towards a cyclist. His vehicle is then seen to move forward appearing to strike and or intimidated the cyclist causing him to stumble.

The licensee stated he is not proud of what happened. He said he was in a line of traffic and had pulled out to go down Milsom Street. The cyclist was overtaking

stationary traffic and as he passed had lashed out at the mirror on the driver's door. The licensee said he was initially worried because he had nearly hit the cyclist off his bike, then upset that the cyclist had tried to damage the mirror on his vehicle and then frustrated that the cyclist was preventing him from moving. The licensee said that during the verbal exchange his vehicle lurched forward because his foot had slipped off the brake. The pair then moved on to Milsom Street to get out of the way of the traffic where the matter ended amicable. The licensee stated at no time did he touch or come close to touching the cyclist.

With regard to the other matters the licensee stated there were no witnesses and the lady was happy to pay the fare. He denied being aggressive and had since carried the same lady in his vehicle. With regard to the second incident the gentleman walked out in front of him and he had to stop. The licensee stated at no time did he shout at the pedestrian.

Members took a dim view of the conduct of the licensee, which in a relatively short space of time has attracted 3 complaints each involving aggressive words or behaviour. Whilst noting the incident on 25 November 2015 ended amicably they were nevertheless extremely concerned about the words and images contained in the video. Not only is the licensee seen shouting out of his vehicle's window but the vehicle is also seen lurching towards a vulnerable road user following a threat to run him over. Members, however, cannot be sure whether contact was made between the taxi and cyclist. In any event, Members find it highly unlikely that as a professional driver the licensee's foot would have slipped off of the brake pedal and therefore find the licensee's explanation fanciful. In conclusion Members find the licensee's words threatening and that he used his vehicle as a weapon to intimidate the cyclist immediately following the threat causing the cyclist to stumble.

Members reminded themselves that the protection of the public is their primary concern. Further, that Bath and North East Somerset Council expects all licensed drivers to act both lawfully and as ambassadors for the City and District. In all the circumstances, however, Members resolved to deal with the matter with a stern warning as to his future conduct.

9 **CONSIDERATION OF SPEEDING CONVICTIONS AND FIXED PENALTY NOTICE OBTAINED:- MR MAC**

Mr MAC confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer summarised the report and provided Members with a copy of the DBS certificate and personal statement. The hearing was adjourned to allow Members time to study these documents.

After the adjournment Mr MAC stated his case and was questioned by Members.

Following a further adjournment the Sub-Committee

RESOLVED that Mr MAC receive a stern warning as to his future conduct in respect of his speeding convictions and fixed penalty notice.

Reasons for the decision

Members have had to determine what action, if any, to take against the holder of a combined Hackney Carriage/Private Hire Driver's Licence having obtained 12 penalty points on his DVLA driving licence. In doing so Members have taken account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Members gave careful consideration to the licensee's oral representations, his written statement and balanced these against the information contained on his DVLA driving licence.

Accordingly Members had to decide whether or not the licensee continued to be a fit and proper person to hold a licence taking into account all the circumstances. Members further noted that case law states the economic wellbeing of the licensee is irrelevant and that it is the protection of the public that is of the utmost importance.

Members noted that the licensee had accrued 12 penalty points on his DVLA driving licence. Nine of these were accrued in one day during a journey along the M4.

The licensee stated it was late at night and that he was the only person on the street. He said that he did not usually drive fast and this was the last job of the day and he was on his way home.

Members took a dim view of the matters and reminded themselves that the Bath and North East Somerset Council licenses drivers for the protection of the public. On this occasion however, they gave the licensee a stern warning as to his future conduct.

10 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR AT

Mr AT confirmed that he understood the procedure to be followed at the hearing.

The Senior Public Protection Officer summarised the report and provided Members with a copy of the DBS certificate, personal statement and references. The hearing was adjourned to allow Members time to study these documents.

After the adjournment Mr AT stated his case and was questioned by Members.

Following a further adjournment the Sub-Committee

RESOLVED that the application for a hackney carriage/private hire driver's licence in respect of Mr AT be granted, subject to the standard terms and conditions.

Reasons for the decision

Members have had to determine an application for a combined Hackney Carriage/Private Hire Driver's Licence. In doing so Members have taken account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Members gave careful consideration to the applicant's oral representations, his written statement, references and balanced these against a number of matters raised on his Disclosure and Barring Service Certificate.

Members noted that the DBS showed a number of matters which occurred between 25 May 2011 and 8 May 2014. Whilst these fell outside of their Policy Members nevertheless had to decide whether or not the applicant was a fit and proper person to hold a licence taking in all the circumstances.

The applicant stated he has learnt from his past experiences and the situation will not arise again. He said he now chooses his friends more carefully and the incident at the Green Park Tavern would not reoccur. With regards to driving for his referee the applicant said it was more of a favour than anything else. He further said that he was not the person that appeared on the paper and wanted an opportunity to show that he can be trusted.

Members reminded themselves that the protection of the public is of the utmost importance and that all drivers licensed by the Bath and North East Somerset Council must be fit and proper. Members considered that the applicant had moved on with his life, the matters fell outside of the Policy and that he is a fit and proper person to hold a combined HC/PHV drivers licence.

11 RETURN TO PUBLIC SESSION

The meeting returned to public session after the previous exempt items.

12 TEMPORARY EVENT NOTICE FOR HAYDON VILLAGE HALL - 1ST JULY 2017

This report was added to the agenda, having been agreed by the Chair, after the papers were despatched.

The applicant was present along with the Police Licensing Officer Geoff Cannon.

The Senior Public Protection Officer summarised the report and explained there had been an objection from the police.

The Police Licensing Officer explained that they had wanted clarification and reassurance about the management of the event. There had been further discussion with the applicant who had now produced an Event Management Plan. Having gone through the plan the police were satisfied and had now withdrawn their objection to the temporary event notice.

RESOLVED that the Temporary Event Notice in respect of Haydon Village Hall be permitted as the objection from the police had been withdrawn.

Reasons for the decision

Members determined an application for a Temporary Event Notice at Haydon Village Hall, Kilmersdon Road, Haydon and heard that the police had withdrawn their representation against the application.

Accordingly Members granted the application as applied for and delegated authority to issue the licence.

The meeting ended at 11.47 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services