



Complete Agenda

Democratic Services
Swyddfa'r Cyngor
CAERNARFON
Gwynedd
LL55 1SH

Meeting

GENERAL LICENSING COMMITTEE

Date and Time

10.00 am, MONDAY, 19TH JUNE, 2017

Location

Siambr Hywel Dda, Council Offices, Caernarfon, Gwynedd, LL55 1SH

Contact Point

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(DISTRIBUTED Friday, 9 June 2017)

GENERAL LICENSING COMMITTEE

MEMBERSHIP (15)

Plaid Cymru (8)

Councillors

Steve Collings
Dafydd Owen
Rheinallt Puw
Elfed Williams

Annwen Hughes
Edgar Wyn Owen
Peter Read
Annwen Daniels

Independent (5)

Councillors

John Brynmor Hughes
Eryl Jones-Williams
Dewi Wyn Roberts

Louise Hughes
Jason Wayne Parry

Llais Gwynedd (1)

Councillor Gareth Williams

Lib / Lab (1)

Councillor Sion Jones

Ex-officio Members

Chair and Vice-Chair of the Council

A G E N D A

1. ELECT CHAIR

To elect a Chairman for 2017/18

2. ELECT VICE CHAIR

To elect a Vice-chairman for 2017/18

3. APOLOGIES

To receive any apologies for absence.

4. DECLARATION OF PERSONAL INTEREST

To receive any declaration of personal interest.

5. URGENT ITEMS

To note any items that are a matter of urgency in the view of the Chairman for consideration.

6. MINUTES

4 - 5

The Chairman shall propose that the minutes of the meeting of this Committee, held on 6.3.17 be signed as a true record.

7. GENERAL LICENSING SUB-COMMITTEE MINUTES

6 - 17

To submit, for information, minutes of the General Licensing Sub-committee meeting held on the following dates –

- a) 01.2.17
- b) 17.2.17
- c) 08.3.17
- d) 15.3.17
- e) 27.4.17

Agenda Item 6

GENERAL LICENSING COMMITTEE, 06.03.17

Present: Councillors, Annwen Daniels, Anwen Davies, Annwen Hughes, John Brynmor Hughes, Louise Hughes, Eryl Jones-Williams, Tudor Owen (Chair) Angela Russell, Ann Williams, Elfed W. Williams, John Wyn Williams and RH Wyn Williams

Also in Attendance: Gareth Jones (Senior Planning and Environment Manager), Gwenan Mai Roberts (Licensing Manager), Geraint B. Edwards (Solicitor) and Lowri Haf Evans (Member Support Officer)

1. APOLOGIES

Apologies were received from Councillors Dilwyn Morgan and Peter Read.

2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

3. URGENT ITEMS

None to note

4. MINUTES OF THE PREVIOUS MEETING

The Chair signed the minutes of the previous meeting of this committee, that took place on 12th December 2016, as a true record.

5. MINUTES OF THE GENERAL LICENSING SUB-COMMITTEES

Submitted - for information, the minutes of a meeting of the General Licensing Sub-committee held on 15.12.16.

The meeting commenced at 11:00am and concluded at 11:10am.

GENERAL LICENSING SUB-COMMITTEE 01.02.2017

Present : Councillor Eryl Jones Williams (Chair), Councillors Angela Russell and Ann Williams

Officers: Geraint B Edwards (Solicitor), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Member Support Officer).

1. WELCOME and APOLOGIES

The Chair, Councillor Eryl Jones Williams, welcomed everyone to the meeting. The panel and the officers were introduced to everyone present.

2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

3. URGENT ITEMS

None to note

4. EXCLUSION OF PRESS AND PUBLIC

RESOLVED to exclude the press and public from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12 A, of the Local Government Act 1972. These paragraphs applied as the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, nor their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5. APPLICATION FOR HACKNEY / PRIVATE HIRE DRIVER'S LICENCE

The Licensing Manager presented the written report on the application received from Ms A for a new hackney carriage/private hire vehicle driver's licence.

It was reiterated that a statement of convictions had been submitted and it noted that the applicant had a conviction that was relevant to the licensing of taxi drivers. The Committee was asked to consider the application in accordance with the DBS record, and in accordance with the guidelines on relevant criminal offences and convictions.

The applicant's representative was invited to expand on the application. Information was given regarding the background of the criminal offences and it was noted that three had occurred on Halloween when a trick had backfired. Reference was made to the other criminal offences that were historical. It was added that the applicant had worked as a driver for a local company and she had also received a hackney vehicle driving licence from Anglesey Council (December 31st 2016). It was noted that a hearing had not been conducted and that it was only a request to submit information on paper.

The applicant and her representative withdrew from the room while the Sub-committee members discussed the application.

The Sub-committee received the information recorded in the DBS statement as an accurate account of events. In reaching their decision, the Sub-committee considered the following factors:

- The requirements of the 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- The applicant's application form
- Verbal observations by the applicant and her representative
- The Licensing Department's report along with the DBS statement

THE SUB-COMMITTEE RESOLVED TO DEFER THE APPLICATION

The Sub-committee provided the following reasons for its decision:-

- The DBS record stated that there were multiple convictions for the criminal offence of damage with the latest taking place in 2011.
- During the hearing it was highlighted that the applicant had received a hackney carriage / private hire vehicle driving licence from Anglesey Council (AC) on 31 December 2016 (a licence ID Card was presented as evidence of this). It was noted that the details of the AC licence had not been disclosed on the original application form, however, the applicant's representative argued that Gwynedd Council's (GC) Licensing Unit were aware of the AC licence. Despite this, no details about the decision had been shared, such as the date when the GC Licensing Unit was informed, which officer was informed and by what means of communication. The Licensing Manager confirmed that the GC Licensing Unit had no information regarding the AC licence.
- Further information was required regarding the AC licence before they could be in a situation to make a final decision.
- CG's Licensing Unit needed to make enquiries with the AC Licensing Unit on the following matters:
 - a. Confirm that the applicant had been issued with a hackney carriage /private hire vehicle driving licence
 - b. To verify the contents of AC's policy on applications for hackney carriage/private hire vehicle driving licence
 - c. Request a written statement of the reasons why the licence was approved, despite the convictions on the DBS statement.
- That it was possible to refuse the application on the grounds of clause 16.1 The 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles' *'prevents the issuing of a licence when the applicant has multiple convictions for criminal damage crimes, when the previous conviction occurred less than 10 years prior to the application'*. However, members were anxious to receive further information regarding the AC licence before they could be in a situation to make a final decision.
- That the applicant was in employment and therefore was satisfied to an extent that she would not be harmed by the delay
- If the information regarding the AC licence had been submitted with the application then it would have been possible for GC's Licensing Unit to have made appropriate enquiries with the AC Licensing Unit and therefore avoid the need for a deferral.
- It was necessary to ensure a fair hearing and to safeguard public safety.

The applicant's representative expressed his discontent with the decision and stated that he would be making an official complaint about the Licensing Unit.

The meeting commenced at 10.40am and concluded at 11.30am.

GENERAL LICENSING SUB-COMMITTEE 17.02.2017

Present: Councillor Eryl Jones Williams (Chair), Councillors Angela Russell and Ann Williams

Officers: Geraint B Edwards (Solicitor), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Member Support Officer).

1. WELCOME and APOLOGIES

The Chair, Councillor Eryl Jones Williams, welcomed everyone to the meeting. The panel and the officers were introduced to everyone present.

2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

3. URGENT ITEMS

None to note

4. EXCLUSION OF PRESS AND PUBLIC

RESOLVED to exclude the press and public from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12 A, of the Local Government Act 1972. These paragraphs applied as the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, nor their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5. APPLICATION FOR HACKNEY / PRIVATE HIRE DRIVER'S LICENCE

The Licensing Manager presented the written report on the application received from Mr A. for a new hackney/private hire driver's licence. It was noted that the hearing was a follow-up to a decision made on 01.02.17 where the hearing was postponed until a written statement was received explaining the reason why a licence was approved by Anglesey Council (AC), despite the convictions on the DBS statement.

It was reiterated that a statement of convictions had been submitted and, due to the fact that crimes which remained relevant to the licensing field had been included in the statement, the Committee was requested to consider the application in accordance with the DBS record, and in accordance with the guidance on relevant crimes and convictions. It was added that no additional convictions had been noted since the submission of the original application.

RESOLVED that the applicant was a fit and proper person to be issued with a hackney vehicle/private hire driver's licence and Mr A's application for a hackney vehicle/private hire licence was granted.

In reaching their decision, the Sub-committee considered the following:

- The requirements of the 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- The applicant's application form
- Verbal observations that the applicant and his representative presented during both hearings
- The Licensing Department's report along with the DBS statement that revealed the convictions

Specific consideration was given to the following matters.

Following an 18 month disqualification after a drink-driving incident in August 2003 (which was lifted in September 2004 because the applicant completed a course), it was accepted that the offence of drink-driving was an isolated conviction and in accordance with paragraph 11.1 of the Council's policy, a period of at least 3 years should have passed since the restriction ended. Consequently, as the conviction dated from 2004, the Sub-committee did not consider the conviction to be a reason for refusing the application.

The Sub-committee had also considered the conviction for a criminal damage incident (May 2004) where the applicant was sentenced to a fine and ordered to pay compensation and costs. They had also considered the January 2012 conviction for an incident of an attack that caused actual bodily harm (ABH) and for two accusations of criminal damage on the same date. Under clause 16.1 of the Licensing Policy, *'consideration should be given to refuse the application if the applicant had a history of reoffending, which shows a lack of respect towards the well-being of others or their property, if a period of at least 10 years has not gone by since the latest conviction'*. However, the Sub-committee had the right to deviate from clause 16.1 if satisfied that the exceptional circumstances were relevant.

It was considered that there was a gap of eight years between the 2004 and 2012 convictions, and that the applicant had not gone out to cause an act of criminal damage intentionally (2012), rather it had happened as a result of a prank that went wrong.

In addition, it was considered that the applicant had a hackney vehicle/private hire licence with AC and, although this did not mean that it was required for the Sub-committee to come to the conclusion that the applicant was a fit and proper person, it was a factor that the Sub-committee considered when deviating from clause 16.1. It was highlighted that the applicant had already driven in and out of Gwynedd by virtue of the cross-boundary work, and the Sub-committee had not received any evidence of complaints or problems relating to his work as a driver.

Under the circumstances, the Sub-committee was satisfied that the above reasons justified the deviation from clause 16.1, and therefore accepted that the applicant was a fit and proper person to accept a licence with Gwynedd Council. It was emphasised that this application had been decided on its own merits and, therefore, did not set a precedent.

The meeting commenced at 10:40am and concluded at 12:30pm.

GENERAL LICENSING SUB-COMMITTEE 8.03.2017

Present: Councillor Eryl Jones Williams (Chair), Councillors Annwen Daniels and Dilwyn Morgan.

Officers: Geraint B Edwards (Solicitor), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Member Support Officer).

1. APOLOGIES

Apologies were received from Councillor Louise Hughes.

2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

3. URGENT ITEMS

None to note

4. EXCLUSION OF PRESS AND PUBLIC

RESOLVED to exclude the press and public from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12 A, of the Local Government Act 1972. These paragraphs applied as the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, nor their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5. APPLICATION FOR HACKNEY / PRIVATE HIRE DRIVER'S LICENCE

The Sub-committee expressed disappointment that the applicant was not present at the hearing.

It was highlighted that the Licensing Officer had received an e-mail from the applicant confirming his intention to attend the hearing. The Licensing Manager was asked to contact the applicant through his mobile phone, but the applicant did not answer.

It was decided to continue with the hearing in the applicant's absence.

The Licensing Manager presented the written report on the application received from Mr A. for a new hackney/private hire driver's licence. The Sub-committee was asked to consider the application in accordance with the DBS record, and in accordance with the guidelines on relevant criminal offences and convictions.

RESOLVED that the applicant was not a fit and proper person to be granted a hackney/private hire driver's licence and Mr A's application for a hackney/private hire driver's licence was refused.

In reaching their decision, the Sub-committee considered the following:

- the requirements of the 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'

- the applicant's application form along with a driving course completion certificate and two fixed penalty notices submitted by North Wales Police 6.1.17
- the Licensing Department's report along with the DBS statement that revealed the convictions

Specific consideration was given to the following matters.

Following a verdict from the Magistrates' Court for one theft offence in 2001, it was highlighted that, in accordance with paragraph 8.2 of the Council's Policy, a period of at least three years should have passed from the time the ban ended. As the conviction dated back 15 years, the Sub-committee did not consider this conviction to be a reason for refusing the application.

Following a 12 month ban for drink-driving in April 2009 (which was reduced to nine months following the completion of a course), it was accepted, in accordance with clause 12.10 of the Council's Policy, *that an application would be objected if there was a recent conviction against the applicant that led to a ban of 12 months or more, unless a period of at least 18 months had passed since the end of the ban.* As the conviction dated back to 2010, the Sub-committee did not consider the conviction to be a reason for refusing the application.

Following a notice from West Midlands Police relating to an allegation that the applicant had attacked / abused or neglected a child, causing unnecessary suffering or injury in February 2013, it was noted that the DBS statement details were vague. As the applicant was not present to elaborate on the background to the allegation, the Sub-committee considered this to be 'assault on a child'. According to clause 7.2 of the Council's Policy, *unless there were exceptional circumstances, an application would usually be refused if there were offences regarding children or vulnerable adults.* It was noted that there was no conditional deadline included in clause 7.2 and, as the applicant was not present to elaborate on the background to the conviction, it was felt that it was not possible to consider the circumstances as exceptional. The Sub-committee was of the opinion that the notice was relevant to this clause.

Following fixed penalty notices from North Wales Police in relation two two offences: driving without an MOT certificate, and driving a car without insurance in December 2016, it was not obvious from the presented documents that fixed penalties had been paid / challenged. In addition, the Sub-committee was concerned that the applicant did not comply with passenger safety issues. In accordance with clause 12.2 of the Council's Policy > motoring convictions, both offences would be equal to 'serious traffic offences'. Under clause 12.4, it was noted that the application would be rejected *if the applicant had committed more than one Serious Traffic Offence within the last five years, and no further application should be considered until a period of at least three years had passed.* As the fixed penalty notices were issued in January 2017, the Sub-committee was of the opinion that these notices were relevant to the clause.

Disappointment was expressed in that the applicant was not present to present observations on the background of his offences and to respond to relevant questions. Disappointment was also expressed that the applicant's prospective employer had not submitted a reference, and had failed to attend the hearing.

Based on the available information to the Sub-committee, the decision was reached that the warning received in 2012 and both fixed penalty notices in 2017 were sufficient reasons for the Sub-committee to adhere to the Policy and to refuse the application.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant and the applicant would have the right to appeal the decision within 21 days of receiving the letter.

The meeting commenced at 2.45pm and concluded at 3.00pm.

GENERAL LICENSING SUB-COMMITTEE 15.03.2017

Present: Councillor Tudor Owen (Chair), Councillors John Brynmor Hughes and R. H. Wyn Williams

Officers: Geraint B. Edwards (Solicitor), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Member Support Officer).

1. APOLOGIES

None to note

2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

3. URGENT ITEMS

None to note

4. EXCLUSION OF PRESS AND PUBLIC

RESOLVED to exclude the press and public from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12 A, of the Local Government Act 1972. These paragraphs applied as the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, nor their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5. APPLICATION FOR HACKNEY / PRIVATE HIRE DRIVER'S LICENCE

The Licensing Manager presented the written report on the application received from Mr A. for a new hackney/private hire driver's licence. The Sub-committee was asked to consider the application in accordance with the DBS record, and in accordance with the guidelines on relevant criminal offences and convictions.

The applicant was invited to expand on the application. Information was given on the background of the criminal offences and it was highlighted that the reason for his mistake was a misunderstanding. It was noted that advice and appropriate and correct information at the beginning of his career as a taxi driver would have been advantageous. It was confirmed that he had a current driving licence for private hire and hackney carriages in Arfon.

The applicant withdrew from the room while the Sub-committee members discussed the application.

RESOLVED that the applicant was a fit and proper person to be issued with a hackney vehicle/private hire driver's licence and Mr A's application for a hackney vehicle/private hire licence was granted.

In reaching their decision, the Sub-committee considered the following:

- the requirements of the 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- the applicant's application form
- the Licensing Department's report along with the DBS statement that revealed the convictions

Specific consideration was given to the following matters.

Following a statement on the application form for a driving offence over the statutory time limit (three penalty points in August 2015), it was highlighted, in accordance with clause 13.1 of the Council's Policy, that a minor driving offence meant an offence between one and three penalty points. It was highlighted that clause 13.2 noted that one conviction for a minor driving conviction would not lead to an application refusal and therefore the Sub-committee did not consider this minor offence as being a reason for refusing the application.

Following a decision from Anglesey Magistrates' Court (November 2016) on an accusation of acting contrary to regulation 9 of the User Protection Act from 2008 Unfair Trading along with a conviction of soliciting hire without a vehicle licence which was contrary to Section 45 of Town Police Clauses Act 1847, the applicant confirmed that both cases arose from an incident in Menai Bridge (March 2016) where he had been caught by Anglesey Council in a test purchase practice.

It was highlighted that, in accordance with clause 17.0 of Gwynedd Council's Policy, it would be unlikely to issue a licence to an *applicant with a conviction related to breaching an act or a by-law unless a period of 12 months had passed since the most recent case*. Although only four months had passed since the date of the restriction, the first step would be to refuse the application, but the Sub-committee had the right to deviate from the guidelines in exceptional circumstances.

As the applicant had confirmed that he had a Private Hire and Hackney Carriages one year licence for Arfon only (between 28.8.15 and 27.8.16), this did not allow him to work in Anglesey. The applicant highlighted that this was a misunderstanding on his part and he pleaded guilty to the offence.

The Sub-committee considered that there was no evidence or concern regarding the applicant's behaviour as an Arfon driver during the period of the licence.

Under the circumstances, the Sub-committee was satisfied that the above reasons justified the deviation from clause 17.0, and therefore accepted that the applicant was a fit and proper person to accept a licence with Gwynedd Council.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant and the Licensing Unit would confirm the licence's arrangement.

The meeting commenced at 11.15am and concluded at 12:15pm.

GENERAL LICENSING SUB-COMMITTEE 27.04.2017

Present: Councillor Tudor Owen (Chair), Councillors Ann Williams and Elfed Williams

Officers: Geraint B. Edwards (Solicitor), Cheryl Morgan (Licensing Officer) and Lowri Haf Evans (Member Support and Scrutiny Officer).

1. APOLOGIES

None to note

2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

3. URGENT ITEMS

None to note

4. EXCLUSION OF PRESS AND PUBLIC

RESOLVED to exclude the press and public from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12 A, of the Local Government Act 1972. These paragraphs applied as the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, nor their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5. APPLICATION FOR HACKNEY / PRIVATE HIRE DRIVER'S LICENCE

The Licensing Manager presented the written report on the application received from Mr A. for a hackney/private hire driver's licence. The Sub-committee was asked to consider the application in accordance with the DBS record, and in accordance with the guidelines on relevant criminal offences and convictions.

The applicant's representative was invited to expand on the application. He highlighted his intention to employ the applicant, if the licence was granted, by offering him up to 30 hours of work a week. The applicant was invited to share information on the background of the criminal offences and it was highlighted that the main reason for his mistake was a misunderstanding. He confirmed that he had a full current driving licence.

The applicant and his representative withdrew from the room while the Sub-committee members discussed the application.

RESOLVED that the applicant was a fit and proper person to be issued with a hackney vehicle/private hire driver's licence from Gwynedd Council.

In reaching their decision, the Sub-committee considered the following:

- the requirements of the 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire'

- the applicant's application form
- verbal observations presented by the applicant and his representative during the hearing
- the Licensing Department's report along with the DBS statement that disclosed the convictions

Specific consideration was given to the following matters.

Following a conviction by South Anglesey Magistrates Court (September 2000) for one incident of ABH the applicant was sentenced to community service and an order to pay compensation and costs. In accordance with paragraph 6.5 of the Council's policy an application will be refused if less than 3 years have elapsed since receiving a conviction for a ABH crime. As the conviction had taken place over 16 years ago, the Sub-committee was satisfied that it did not fall within the restriction of clause 6.5 and therefore was not a reason for refusing the application.

Following a conviction from the South Anglesey Magistrates Court (December 2003) for one charge of drunken and unruly behaviour the applicant received a fine and an order to pay costs. The Council's policy does not address such an offence specifically, however, it was highlighted that clause 17.1 of the policy stated that 12 months must have elapsed since the date of conviction. As the conviction had taken place over 13 years ago, the Sub-committee was satisfied that it did not fall within the restriction of clause 17.1 and therefore was not a reason for refusing the application.

Following a conviction from the South Anglesey Magistrates Court (December 2009) for one charge of using a vehicle without insurance the applicant received 7 penalty points and an order to pay a fine, victim surcharge and costs. The applicant was not banned from driving. In accordance with paragraph 12.2 of the policy, the crime is considered to be a serious driving offence and 6 months should elapse since receiving the conviction. As the conviction had taken place 8 years ago, the Sub-committee was satisfied that this conviction should not be a reason for refusing the application.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant and the Licensing Unit would confirm the licence's arrangement.

The Sub-committee was satisfied that the above reasons justified that the applicant was a fit and proper person to receive a licence with Gwynedd Council.

The meeting commenced at 10.15am and concluded at 11.15am.