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## GENERAL LICENSING SUB COMMITTEE 10/12/18

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**Present:** Councillor Peter Read (Chairman), Councillors John Brynmor Hughes and Angela Russell

**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 A HACKNEY/PRIVATE HIRE LICENCE

The Chairman welcomed everyone to the meeting. He highlighted that the decision would be made in accordance with Gwynedd Council's licensing policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application and the aim was to protect the public by ensuring that:

- A person is a fit and proper person
- The person does not pose a threat to the public
- That the public are safeguarded from dishonest persons
- The safeguarding of children and young people
- The safeguarding of vulnerable persons
- The public have confidence in their use of licensed vehicles.

The Licensing Officer presented the written report on the application received

from Mr A for a hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the DBS record, and the guidelines on relevant criminal offences and convictions. It was explained that the applicant had made an application for a licence in July 2015, when the application was checked and determined on the basis of an officer's assessment. The Licensing Unit's records indicate that the application was not referred to a hearing of this Sub-committee in accordance with delegated rights and relevant clauses of the Council's Constitution. It was added that the applicant had not renewed his licence in 2016 until a new application was submitted in 8.11.18.

The applicant's representative was invited to expand on the application and provide information about the background of the offences and the applicant's personal circumstances. It was noted that Mr A had been judged to be a fit and proper person by an officer in 2015, and that nothing had changed since then. It was noted that he was self-employed as a floor installer, however, the work had now quietened down. It was added that there was a driving offence on the applicant's licence until 2020.

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 Vehicles'
- 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 disclosing convictions.

Specific consideration was given to the following matters.

The applicant received a conviction for an offence of Violent Disorder by Caernarfon Crown Court (July 1990) contrary to the Public Order Act 1986, where he was ordered to undertake 210 hours of community work and pay costs of £320.00. In September 1991, he received convictions for a series of offences by Bangor Magistrates Court contrary to the Policing Act 1964. The offences included obstructing the Police and two offences that their details have not been fully included on the DBS record. He received a fine of £150.00. In September 1996, he received a conviction from Bangor Magistrates Court for a general assault, contrary to section 39 of the Criminal Justice Act 1988 where he was ordered to pay damages of £500 and costs of £50.

In June 1998, he received a conviction from South Anglesey Magistrates for an offence of failing to provide a specimen for analysis in relation to being responsible for a motor vehicle (contrary to the Road Traffic Act 1988). He received a fine of £160, costs of £60 and was disqualified from driving for 12 months. In August 2002, he received a conviction from Bangor Magistrates Court for a series of offences contrary to the Road Traffic Act 1988. He failed to provide a specimen for analysis in relation to being responsible for a motor vehicle as well as failing a breathalyser test. He received a fine of £250.00, an order to pay costs of £35 and was disqualified from driving for three years (reduced by 7.5

months having undertaken a course). In July 2017, he received three points on his licence for driving at a speed above the statutory driving limit.

Paragraph 2.2 of the Council's Policy was considered, this states that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to remain free of conviction for an appropriate period as stated in the Policy, and to show evidence that he/she is a fit and proper person to hold a licence. The applicant has a responsibility to show that he/she is a fit and proper person.

Paragraph 4.5 of the Council policy was considered which states that the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 allows the Sub-committee to take into account all convictions recorded against an applicant, whether spent or otherwise under the 1974 Act.

Paragraph 6 of the Policy deals with offences of violence and paragraph 6.4 notes that an application for a licence will normally be refused if the applicant has a conviction for one of the offences listed unless a period of 10 years has elapsed. The paragraph lists amongst other matters offences that deal with violent disorder and similar offences. Paragraph 6.5 of the Policy states that an application for a licence will usually be refused if the applicant has a matter to be considered for common assault that is less than three years prior to the date of application. The paragraph lists amongst other matters offences that deal with common assault and obstruction. Paragraph 6.6 states that an application will normally be refused if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

Paragraph 11 of the policy addresses offences involved with drink-driving which include a failure to provide a specimen. Paragraph 11.2 notes that applicants with more than one conviction are unlikely to be granted a licence unless a period of 10 years has elapsed since the last conviction.

Paragraph 16.1 of the Council's policy deals with repeat offending. Firstly, it is necessary to ensure that the convictions satisfy the individual policy guidelines, but that they together create a history of repeat offending that indicates a lack of respect for the welfare and property of others. The policy states that 10 years must elapse since the most recent conviction.

The Sub-committee concluded that the convictions dealing with violent crimes should be measured under paragraphs 6.4 and 6.5 of the policy. However, as these convictions were historical (beyond the policy requirements of three years) there was no reason to refuse the application.

The Sub-committee considered that the convictions dealing with failing to provide a specimen should be measured under paragraphs 11.2 and 15.1 as cases of disqualification from driving indicated a lack of respect for the welfare of others. However, as these conviction were historical (beyond the policy requirements of ten years) there was no reason to refuse the application.

The Sub-Committee gave consideration to the fact that the applicant had been issued with a hackney vehicle/private hire vehicle driving licence from Gwynedd Council in 2015. The application was approved by the Licensing Officer, rather than a Sub-Committee on the grounds that the applicant was fit and proper. However, it was emphasised although the officer would have refused the application, the Sub-committee would have come to the same conclusion namely that the offences should not be grounds to refuse the application.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant and the Licensing Unit would be in contact to confirm the licence documentation.

The meeting commenced at 11.40 am and concluded at 12.10 pm

**CHAIRMAN**