

GENERAL LICENSING SUB-COMMITTEE 12.01.2018

Present: Councillor Eryl Jones-Williams (Chair), Councillors Steve Collings and Dafydd Owen

Officers: Geraint B Edwards (Solicitor), Gwenan M 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 DRIVER'S LICENCE- Mr A

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
- Children and young people are protected
- Vulnerable persons are protected
- The public have confidence in their use of licensed vehicles.

The Licensing Manager presented a 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.

The applicant was invited to expand on the application and provide information about the background of the offences. He highlighted that he was very fond of driving and had been driving lorries for 35 years. He noted that he had been offered a taxi driver job with a local company. He had not considered bringing a representative with him to the hearing. 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 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 during the hearing
- the Licensing Department's report along with the DBS statement disclosing the convictions

Specific consideration was given to the following matters.

The conviction (received from Porthmadog Magistrates' Court - July 1982) was for using threatening, abusive or offensive language or behaviour contrary to section 5 of the Public Order Act 1936, in addition to an ABH assault contrary to section 47 of the Offences Against the Person Act 1861. The applicant received a £100 fine and an order to pay costs of £3 for the public order offence, and he received a fine of £100 for the ABH offence. Attention was drawn to the fact that he had no convictions for crimes of a violent nature.

Paragraph 6.5 of the Council's Policy was considered, where it was noted that the application would usually be refused when the applicant had one conviction for ABH that was less than three years old. As the conviction had taken place over 35 years ago, the Sub-committee was satisfied that the conviction was not a reason for refusing the application.

The conviction (received from Mold Magistrates' Court - March 2017) was for a series of environmental offences (two charges of keeping controlled waste in a manner likely to cause pollution of the environment or harm to human health contrary to section 33(1) (c) of the Environmental Protection Act 1990, and seven charges contrary to regulation 38 of the Environmental Permitting (England and Wales) 2010 Regulations). For the charge under the 1990 Act, the applicant was sentenced to six months in prison; for the second charge under the same Act, he was sentenced to four months in prison (running consecutively) and for one charge under Regulations 2010, he received a six month prison sentence (again, running consecutively). No separate penalties were received for the other charges under the 2010 Act.

Although the conviction did not appear relevant to any of the categories of offences that are specifically addressed in the Policy (violent or sexual crimes, or crimes relating to dishonesty, drugs or driving offences, etc.), the Sub-committee considered that the application fell under paragraph 17 - general breach of legislation. The paragraph noted that it was unlikely that a licence would be granted to an applicant with a conviction for breaching legislation, unless a 12 month period had passed since the most recent case.

Having considered the applicant's observations that the charge relating to breaches extended over a period from 2014 to August 2016 where a period of 16 months had passed since the date the most recent breach, the Sub-committee was satisfied that this was outside of the exclusion period. In addition, with an honest explanation on the failure of his business to conform to licensing requirements, which led to the conviction in March 2017, the Sub-committee was satisfied that the conviction was not a case of putting profit

before safety and that the applicant had behaved responsibly towards his staff when attempting to maintain the viability of the business for as long as possible.

As the Sub-committee had also considered that the applicant had previous experience of driving as a living - he was a driver in the RAF between 1979 and 1983, and had held a class 1 lorry licence for 35 years, it was deemed that the applicant was a fit and proper person to hold a hackney vehicle and private hire driver's licence.

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.

6. APPLICATION FOR HACKNEY/PRIVATE HIRE DRIVER'S LICENCE - Ms B

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
- The public are safeguarded from dishonest persons
- Children and young people are protected
- Vulnerable persons are protected
- The public have confidence in their use of licensed vehicles.

The Licensing Manager submitted the written report on the application received from Ms B for a new 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.

The applicant was invited to expand on the application and provide information about the background of the offences. She highlighted that the crimes had taken place during her teenage years and that she was now a mother to three children and was trying to do the best for them. She reiterated that she had written letters of apology to everyone who had been affected by her behaviour in January 2004. She noted that she had been offered a part-time job driving a taxi to transport children, the elderly and the disabled. Her wish was to assist and offer a service for the public. 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 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 convictions

Specific consideration was given to the following matters.

The applicant had received a conviction from Caernarfon Magistrates' Court - February

2004 for a series of offences that took place on January 2004, of taking a motor vehicle without permission and two charges of theft. As a result, the applicant received an 11 month referral order and an order to pay costs of £25.00. The applicant had no other convictions.

Paragraph 8.2 of the Policy was considered, where it was noted that the application would usually be refused when the conviction of theft was less than three years old. As the conviction had taken place over 13 years ago, the Sub-committee was satisfied that the conviction was not a reason for refusing the application. The Sub-committee also considered section 12 and 13 of the Policy in relation to the offence of taking without consent. The Sub-committee found that the conviction was tantamount to a minor driving offence, and it should not be reason for refusing the application.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant with details of her right to appeal.

The meeting commenced at 10.55am and concluded at 12.20pm.