

GENERAL LICENSING SUB-COMMITTEE 17.07.2018

Present: Councillor Eryl Jones Williams (Chair), Councillors Angela Russell and Edgar Wyn Owen

Officers: Geraint B. Edwards (Solicitor), Gwenan Mai Roberts (Licensing Manager), Rhian Jones (Licensing Officer) 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
- 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.

The applicant was invited to expand on the application and provide information about the background of the offences. He noted that he had been offered a job with a local company and he had completed a medical examination. He added that the latest conviction had occurred during a very difficult period of his life, however, he was now in a more stable period. He highlighted that he had recently lost his job with a local company and was seeking employment. He noted that he had extensive experience of driving for the

companies that he worked with and he submitted a reference that supported his application.

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

RESOLVED that the applicant was not 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
a reference in support of his application
- the Licensing Department's report along with the DBS statement disclosing the convictions

Specific consideration was given to the following matters.

The applicant had received a conviction from Gwyrfa Magistrates Court (November 1982) on a charge of burglary, contrary to the Theft Act 1968. He received a fine and an order to pay costs. In July 1988, he was found guilty by Caernarfon Magistrates Court on one charge of theft from an employee, contrary to the Theft Act 1968. For this crime he received a fine and an order to pay damages.

The applicant received a conviction from Bangor Magistrates' Court (October 1998) for drink driving and use of a vehicle without insurance. He was banned from driving for 18 months, he received 6 penalty points on his licence, fines and costs. In April 2009, he was banned from driving for 12 months starting on 3 April 2009, with a fine and costs.

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 or she was a fit and proper person to hold a licence.

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

Paragraph 11.2 states that applicants with more than one conviction for driving under the influence of alcohol are unlikely to be granted a licence unless a period of 10 years has elapsed after the restoration of the licence following the last conviction.

Paragraph 11.2 states that an application will normally be refused where an applicant has a record of repeat offending which shows a lack of regard for property, unless a period of at least 10 years has elapsed since the most recent conviction.

The Sub-committee concluded that the burglary conviction (1982) and theft (1988) indicated a pattern of repeat offending dealing with dishonesty, and therefore a lack of regard for property. However, as the most recent of these convictions had occurred 30 years ago, the ban under 16.1 of the Policy did not stand and therefore there were no grounds to refuse the application.

In considering both convictions for drink driving, paragraph 11.2 of the Policy was also considered, and the ban of the most recent conviction had ended in April 2010 with the restoration of the licence on 3 April 2010. The applicant confirmed that he had not completed the course that would have reduced the length of the ban. There was only a little over eight years since April 2010 and therefore under the circumstances, 10 years had not elapsed since the restoration of the licence and the ban under paragraph 11.2 was relevant to this application.

Although the policy is only a guide and the Sub-committee were aware that it was possible to depart from it if there was justification, having considered the evidence submitted by the applicant they were uncomfortable with the two drink driving convictions. Although he was just over the drink driving threshold on both occasions, these were not reasons that could be considered. The Sub-committee was also uncomfortable with the idea of issuing a licence, contrary to policy, to someone with two convictions for drinking and driving with over 18 months to go before the 10 years had elapsed since the last ban.

Although the Sub-committee sympathised with the applicant, members were of the view that this application had been submitted a little too early. The likelihood of being issued with a licence would have been higher if the application had been deferred by about 6-9 months.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant and that he also had the right to appeal against the Sub-committee's decision within 21 days of receiving the letter.

The meeting commenced at 3.20pm and concluded at 4.00pm.