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## GENERAL LICENSING SUB-COMMITTEE 18.09.2019

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**Present:** Councillor Peter Read (Chair), Councillors Steve Collings and Gareth Williams

**Officers:** Geraint Brython Edwards (Solicitor), Alun Merfyn Roberts (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, or 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

a) The Chair welcomed everyone to the meeting. He explained 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 with the aim of protecting the public by ensuring that:

- The 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 using licensed vehicles.

The Licensing Officer presented a written report on an 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's representative was invited to expand on the application and provide information about the background of the offences and his personal circumstances. It was highlighted that the offence had occurred when the applicant was in his teens. It was

reiterated that the applicant had been working in the care field for over 12 years and now wanted to change direction.

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

- b) **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.**
- c) In reaching its decision, the Sub-committee considered the following:
- The requirements of '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

The applicant received a conviction from Anglesey Magistrates' Court in February 2005 on one charge of burglary and theft from a residential property, contrary to section 9(1) of the Theft Act 1968. He received an 18 month supervision order. Later in May 2005, he received two convictions from Anglesey Magistrates' Court for stealing from a person, again, contrary to Section 1, Theft Act 1968. For these convictions, he received a supervision order and an order to pay compensation and costs. Both supervision orders were quashed early on the grounds of good behaviour.

Paragraph 2.2 of the Council's Policy was considered, in which it stated 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 was a fit and proper person to hold a licence. The applicant had a responsibility to prove that he was a fit and proper person.

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 8.0 of the Policy, which addressed dishonesty offences, was considered together with paragraph 8.1 that stated that a serious view was taken of any conviction involving dishonesty. Paragraph 8.2 noted that an application would normally be refused where the applicant had a conviction(s) for an offence listed, and that the conviction was received less than three years prior to the date of application. It was noted that the list of offences included burglary and theft, amongst other offences.

The Sub-committee determined that the offences concerned offences of dishonesty. However, as the last offence had occurred in 2006, over 13 years ago (beyond the period of 3 years), paragraph 8.2 was irrelevant, and there was no reason to refuse the application.

The Sub-committee was of the opinion 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 to the applicant.

## **6. APPLICATION FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE - Mr B**

The Chair welcomed everyone to the meeting. He explained 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 with the aim of protecting the public by ensuring that:

- The 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 using licensed vehicles.

The Licensing Manager submitted the written report on the application received from Ms B 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's representative was invited to expand on the application and provide information about the background of the offences and the applicant's personal circumstances.

The applicant withdrew from the room while members of the Sub-committee 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 its decision, the Sub-committee considered the following:

- The requirements of '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

In 1978 and April 1979, the applicant received convictions from Caernarfon Magistrates' Court for stealing from a shop, contrary to Section 1 of the Theft Act 1968. In January 1982, he received a conviction from Caernarfon Magistrates' Court for two offences of supplying and being in possession of controlled drugs, contrary to the Misuse of Drugs Act 1971. He was given a fine of £70 and ordered to pay costs of £3. Later in August 1984, he received another conviction of possessing controlled drugs where he was given a fine of £50. In March 1985, the applicant was found guilty of handling stolen property contrary to the Theft Act 1968 (he received an order to undertake 240 hours of community services). In 1986, the applicant received a conviction for possessing controlled drugs and was given a prison sentence for 28 days. In November 1997, he received convictions for possessing controlled drugs. Since November 1997, the applicant had no further convictions - it was noted that he had a clean driving licence.

Paragraph 2.2 of the Council's Policy was considered, in which it stated 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 was a fit and proper

person to hold a licence. The applicant had a responsibility to prove that he was a fit and proper person.

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 8.0 of the Policy, which addressed dishonesty offences, was considered together with paragraph 8.1 that stated that a serious view was taken of any conviction involving dishonesty. Paragraph 8.2 noted that an application would normally be refused where the applicant had a conviction(s) for an offence listed, and that the conviction was received less than three years prior to the date of application. It was noted that the list of offences included burglary and theft, amongst other offences.

Consideration was given to paragraph 9.0 of the Policy which addressed drug-related offences with clause 9.1 of the policy noting that any offences related to drugs was a serious matter. Paragraph 9.2 noted that an application would be refused where the applicant had a conviction relating to the supply of drugs, and that the conviction was received less than five years prior the date of application. Paragraph 9.3 noted that an application would be refused where the applicant had a conviction relating to the possession of drugs, and that the conviction was received less than five years prior to the date of application.

The Sub-committee determined that the offences concerned offences of dishonesty. However, as the last offence had occurred in 1985, over 34 years ago (beyond the period of 3 years), paragraph 8.2 was irrelevant, and there was no reason to refuse the application.

The drug-related offences were also historical offences, the last offence had occurred in 1997 (over 22 years ago) - beyond the period of five years, paragraphs 9.1, 9.2 and 9.3 were irrelevant and, therefore, there was no reason to refuse the application.

The Sub-committee was of the opinion 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 to the applicant.

## **8. APPLICATION FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE – Mr C**

The Chair welcomed everyone to the meeting. He explained 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 with the aim of protecting the public by ensuring that:

- The 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 using licensed vehicles.

The Licensing Officer presented a written report on an application received from Mr C 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's representative was invited to expand on the application and provide information about the background of the offences and the applicant's personal circumstances.

The applicant withdrew from the room while members of the Sub-committee 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 its decision, the Sub-committee considered the following:

- The requirements of '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

In 1976, the applicant was convicted by Nant Conwy Magistrates' Court for possessing an offensive weapon in a public place and for causing actual bodily harm contrary to the Prevention of Crime Act 1953 and the Offences Against the Person Act 1861. In June 1978, he received a conviction from Caernarfon and Gwyrfa Magistrates' Court for a series of offences - actual bodily harm, refusing to leave licensed premises and two counts of criminal damage. He was given a fine of £80 and ordered to pay damages of £9. In October 1985, the applicant was found guilty of two charges of criminal damage contrary to the Criminal Damage Act 1971 - he received a fine of £75 and ordered to pay damages of £54.07. In December 1987, the applicant received a conviction for two offences of obstructing the Police, contrary to the Police Act 1964, and criminal damage. He was given a fine of £75, an order to pay costs of £15 and a fine of £26.45. In November 2005, he received a conviction from Gwynedd Magistrates' Court on two counts of driving a vehicle without insurance and driving a vehicle under the influence of alcohol which was contrary to the Road Traffic Act 1988. He was given a fine of £100, he received points on his driving licence and he was banned from driving for 56 days.

Paragraph 2.2 of the Council's Policy was considered, in which it stated 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 was a fit and proper person to hold a licence. The applicant had a responsibility to prove that he was a fit and proper person.

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 6 of the Policy addressed violent offences. Paragraph 6.1 stated that licensed drivers had close, regular contact with the public therefore the sub-committee should adopt a robust stance with those who had offences involving violence. Paragraphs 6.3 - 6.5 of the Policy stated that an application for a licence would usually be refused if the applicant had a matter to be considered for common assault that was less than three years prior to the date of application. The paragraph listed offences, and common assault, possession of a weapon and criminal damage was included in the list. Paragraph 6.6 stated that an

application would be refused if an applicant had more than one conviction within the last 10 years for an offence of a violent nature.

Paragraph 11.0 which addressed drink-driving offences, was considered. In paragraph 11.1, it was noted that a serious view would be taken of convictions for driving or being responsible for a vehicle under the influence of alcohol / drugs. Any one who had been found guilty of offences relating to drink-driving was unlikely to receive a licence until they had been free from a conviction(s) for at least three years.

The Sub-committee resolved that a number of these offences were violence-related. However, as the last offence had occurred in 1987, over 31 years ago (which is beyond the period of 3 years), paragraph 6.6 was irrelevant and, therefore, there was no reason to refuse the application.

The Sub-committee determined that the drink-driving offence was also a historical offence, along with the driving ban. However, as the last offence had occurred in 2005, over 13 years ago, paragraph 11.1 was irrelevant and, therefore, there was no reason to refuse the application.

The Sub-committee was of the opinion 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 to the applicant.

The meeting commenced at 2:00pm and concluded at 3:25pm.