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## GENERAL LICENSING SUB COMMITTEE 22/05/18

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**Present:** Councillors Elfed Williams (Chair), John Brynmor Hughes and Jason W Parry

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

### 1. APOLOGIES

Apologies were received from Gwenan Roberts (Licensing Manager)

### 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.

The applicant's prospective employer was invited to expand on the application and provide information about the background of the offences. He noted that the applicant had been working with scaffolding for over twenty years, however, now he needed less laborious work. He highlighted that the applicant had never had a day off work due to illness, he was an honest man and it would be advantageous to his company if the licence was approved because of his willingness to work unsociable hours. He added that the applicant had received a medical examination and an eye test. He asked the panel to consider the application favourably despite the historical convictions.

In response to a question regarding implementing random drug tests on the drivers of his company (following a recent incident), he stated that he did not have a device to conduct the tests and therefore he tried to employ drivers wisely and trusted that his drivers were honest.

The applicant and his prospective employer 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 convictions

Specific consideration was given to the following matters.

The applicant had received a conviction from Caernarfon Youth Court (July 1975) on four charges of burglary, contrary to the Theft Act 1968. He received a supervision order for two years and an order to pay damages. The applicant received a conviction from Caernarfon Magistrates' Court (December 1984) for a charge of burglary, again contrary to the Theft Act 1968, and he received a community service sentence and an order to pay damages of £150.00. The applicant received a conviction from Caernarfon Magistrates' Court (February 1985) on two charges of theft, contrary to the Theft Act 1968, with a fine of £50 and an order to pay damages. The applicant received a conviction from Caernarfon Magistrates' Court (July 1985) on two charges regarding a class B drug, cannabis, contrary to the Misuse of Drugs Act 1971, and he received a fine of £180 and a forfeiture and destruction order. The applicant received a conviction from Caernarfon Magistrates' Court (January 1986) on two charges of using electricity dishonestly contrary to the Theft Act 1968, and one charge of criminal damage contrary to the Criminal Damage Act 1971. He received a fine of £25, payment of damages and a bail order for a year.

It was highlighted that the applicant had received three penalty points for speeding (November 2017).

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.

It was highlighted that paragraph 4.5 of the Council Policy stated that a 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 8.2 was considered, which states that an application will be refused if the applicant has a conviction(s) during the last three years for a dishonesty offence (this includes trying to obtain property by deception). Furthermore, paragraphs 9.2 and 9.3 state that an application will normally be refused if an applicant has more than one conviction concerning drugs and has not been free of conviction(s) for at least 5 years.

It was accepted that the 1985 July conviction included an offence regarding drugs, however, as this had occurred 32 years ago (over 5 years ago) the Sub-committee was of the view that the offence was not a reason to refuse.

Paragraph 13.2 was considered and it states that when an applicant has one conviction for a minor driving offence this would not usually lead to an application refusal or prevent a licence.

Paragraph 16.1 was considered, which states that an application will be refused if there is a history or re-offending. Although there was evidence of re-offending (that indicates a lack of respect for the welfare of others or property); in this case, offences of dishonesty (1975 - 1986), the Sub-committee was of the opinion that these offences were not a reason to refuse the licence as they were historical convictions (over 10 years old).

The Solicitor reported that the decision would be confirmed formally by letter to the applicant.

The meeting commenced at 10.00 am and concluded at 10.35 am

**CHAIRMAN**