

GENERAL LICENSING SUB-COMMITTEE 13.11.2017

Present : Councillor Peter Read (Chairman), Councillors Jason W Parry and Elfed Williams

Officers: Geraint B. Edwards (Solicitor), Gwenan M 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
- That 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
- That 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 they were historical offences and that he had now established a successful business employing two people. He noted that he was

a responsible person now compared to his early years and that he had not committed any offence for over 12 years. He added that he volunteered as a Rally Wales Marshall and had completed a safety accreditation.

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.

That a series of convictions (April 1990) had been disclosed on the applicant's DBS record including driving offences, such as drink driving, careless driving, driving whilst disqualified, driving without insurance and two traffic offences. As a result, he was sentenced to six months in custody for the drink drive offence, a sentence of 6 months for careless driving (consecutively) and four months in custody for the disqualification (also consecutively). He was banned from driving for five years.

The Sub-committee was of the opinion that these convictions were tantamount to Drink Drive offences and Serious Traffic Offences and were in accordance with paragraph 11 and 12 of the Council's policy. In accordance with paragraph 11.2 of the Licensing Policy, it was noted that it was unlikely that a licence would be granted to applicants with more than one conviction for driving or being in charge of a vehicle under the influence of alcohol, unless a period of 10 years had elapsed. The sub-committee was satisfied that the offences did not cause any grounds to refuse the application as a period of 22 years had elapsed since his driving licence had been restored.

The opinion was the same with the convictions for careless driving, driving whilst disqualified, driving without insurance and two traffic offences that were considered under paragraph 12.2. As more than three years had elapsed since these offences, the ban under paragraph 12.4 was not relevant in this case.

Attention was drawn to the DBS record of being guilty for offences for the possession of cannabis with the intention to supply in 1992, contrary to the Drug Abuse Act 1971. In the same manner, this offence was also historical and in accordance with paragraph 9.3 of the policy there were no grounds to refuse the application.

The Sub-committee took into consideration that the applicant had not received any convictions or warnings for 12 years and they were satisfied that he was a fit and proper person to be issued with a hackney vehicle/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 A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE - Mr 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
- That 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
- That the public have confidence in their use of licensed vehicles.

The Licensing Manager submitted the written report on the application received from Mr 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's representative was invited to expand on the application and provide information about the background of the offences. He noted that some of the offences were historical, except for one assault in June 2017. The circumstances of the assault were expanded upon and it was noted that the applicant had admitted that he had made a mistake. Although he was aware of the offence he had been open and honest when submitting the application. It was noted that there was no likelihood that he would re-offend and that having a job would be his opportunity to improve his quality of life and provide for his children. The Panel was asked to give full consideration to the situation and it was suggested that the policy was merely a guide and therefore it was possible to depart from it to reach the right decision.

The applicant and his representative withdrew from the room while 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'
- 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.

A lengthy series of convictions had been disclosed on the applicant's DBS record that included offences (between 1990 and 1998) for criminal damage, driving offences, causing an affray, robbery and common assault. The Sub-committee was of the opinion that a number of these convictions were relevant to robbery offences with most recent in 1996. In considering paragraph 8.2 of the policy and that these offences were historical, there was no grounds to refuse the application.

The opinion was the same with the historical convictions for driving and violence where paragraphs 12 and 6.5 of the policy had been considered.

However, the Sub-committee highlighted concern when considering the offence of assault and harassment (June 2017) where the applicant received, under section 2 of the Protection from Harassment Act 1997, a community order of 12 months, a prevention order and an order to pay damages and costs. Paragraph 6.5 of the policy was considered which states that an application will be refused if the applicant has a conviction that is less than 3 years prior to the date of the application. It was highlighted that the paragraph listed various offences including harassment under the Public Order Act 1986. The Sub-committee considered that harassment under the 1997 Act was similar to harassment under the 1986 Act and therefore continued to be relevant to paragraph 6.5 of the policy.

It was highlighted that these offences had taken place less than 5 months ago - evidently within the three year period and were a likely consideration to refuse the application. The Sub-committee was aware that paragraph 6.5 was only a guide as the applicant's representative pointed out. It was also noted that the Sub-committee acknowledged that they could depart from the policy if there was sufficient justification to do so.

Having considered that the offence had arisen from a domestic incident concerning the applicant's partner, the Sub-committee did not consider this to be a sufficient reason to depart from the guidance. In addition, the Sub-committee was concerned regarding the obvious inconsistencies in the explanation given regarding the circumstances of the assault. The applicant's verbal comments referred to holding his partner's wrist, whilst his representative's verbal comments referred to the applicant pushing his partner.

Consequently, the Sub-committee was not sufficiently convinced that the applicant was a fit and proper person to be issued with a hackney vehicle and private hire driver's licence from Gwynedd Council.

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

The meeting commenced at 2.00pm and concluded at 4.30pm.