

GENERAL LICENSING SUB-COMMITTEE 10.09.2018

Present: Councillor Peter Read (Chairman), Councillors Jason W Parry and Dafydd 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 his application and provide information about the background of the offences and also his personal circumstances. He noted that he had experience of driving a car for work and that was at night. He highlighted that a local company had offered him a job if his application was to be successful.

The applicant withdrew from the room whilst 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 formal warning from North Wales Police (February 2015) on two charges concerning the possession of drugs contrary to section 5 (2) of the Misuse of Drugs Act 1971.

The applicant received a conviction from Gwynedd Magistrates' Court (January 2016) on two charges of being in possession of goods with a false trade mark to be sold or hired contrary to section 92 (1)(c) of the Trade Marks Act 1994. He received a 12 month community order together with an order to pay costs, unpaid work and a victims surcharge.

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/she was a fit and proper person to hold a licence. The applicant has a responsibility to show that he/she is a fit and proper person.

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

Paragraph 8 of the Policy states that an application will normally be refused where the applicant has a conviction that is less than 3 years prior to the date of application for a crime regarding dishonesty.

Paragraph 9.4 of the Policy states that an application will normally be refused where the applicant has an isolated conviction for an offence related to the possession of drugs within the last 3 years. It was also noted that the nature of the drugs in question should be considered.

Paragraph 17 of the Policy notes that an applicant with a conviction is unlikely to be granted a licence unless a period of at least 12 months has elapsed since the most recent breach.

The Sub-committee concluded that the warning in 2015 concerned drugs, however, as the offence had occurred 3 years and 7 months ago, the period of three years had elapsed. Therefore, there was no reason to refuse the application.

In considering the 2016 conviction the Sub-committee needed to see if the conviction fell under the Policy's dishonesty provisions. Following legal advice, it was highlighted that

dishonesty under section 92 (1) (c) did not need to be proven under the Trade Marks Act 1994. It was concluded that the ban under section 8 of the Policy was not relevant to this conviction. The general provision under section 17 of the Policy was considered, however, as the conviction was in relation to an offence that had occurred over 3 years ago, there was no grounds to refuse the application.

The Sub-committee was also grateful to the applicant for being open and honest when he explained the circumstances of the convictions.

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 13:00pm and concluded at 13:25pm