
GENERAL LICENSING SUB COMMITTEE 28/01/19

Present: Councillor Eryl Jones Williams (Chair), Councillors Annwen Hughes and Jason Wayne Parry

Officers: Geraint B Edwards (Solicitor), Gwenan Mai Roberts (Licensing Manager), Alun M Roberts (Public Protection Enforcement 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 LICENCE

The Chairman welcomed everyone to the meeting. He emphasised 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 vehicle driver's licence. The Sub-committee was requested to consider the application in accordance with the DBS record, the guidelines on criminal offences and the applicant's driving licence report provided by the DVLA. Attention was drawn to the fact that the applicant had noted a conviction for an offence under section 4 of the Public Order Act 1986 on his application form that was not included on the DBS record.

The applicant was invited to expand on the application and provide information about the background of the offences and his personal circumstances. He explained each situation in detail, and outlined that he had not received a conviction for failing to disclose information about the identity of a driver, but had received a fixed penalty and points on his licence. He added that he did not regularly drive vehicles, and that he was primarily a back-up driver.

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

RESOLVED that the applicant was a fit and proper person to be issued with a hackney /private hire vehicle 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, the DBS statement and the applicant's driving licence report provided by the DVLA.

Specific consideration was given to the following matters

The applicant had received a conviction in 2012 for an offence under Section 4 of the Public Order Act 1986. In October 2016, he received four penalty points on his driver's licence for breaking the speed limit on a public road. Consideration was given to the additional six points that he received in March 2018 for a breach of requirements regarding control of a vehicle, mobile phones, etc. and a further six points for failing to disclose information about the identity of a driver.

Paragraph 2.2 of the Council's Policy was considered, which 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 is 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 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 6 of the Policy deals with offences of violence, and paragraph 6.5 states that an application for a licence will normally be refused if the applicant has a matter under consideration in relation to common assault that is less than three years prior to the date of application.

Consideration was given to paragraph 12.2 that lists serious traffic offences for the purposes of the Policy. Among these offences, MS90 - failure to provide information about the identity of a driver, is included. Paragraph 12.3 of the policy notes that an application will usually be refused where the applicant has a conviction for a major traffic offence and has not been free of the conviction for at least 6 months.

Condition 6 of the hackney and private hire vehicle driver licence was considered, that notes that drivers are required to inform the Licensing Authority about any conviction under traffic legislation. If a breach was found, paragraph 17.1 of the Policy would apply, which outlines that it is unlikely that an application would be approved unless a 12 month period has elapsed since the most recent breach.

The committee came to the conclusion that the conviction dating from 2012 related to violence, but as a period of six years had elapsed since the incident (beyond a three-year period), paragraph 6.5 was not relevant and therefore the Sub-committee was satisfied that this was not grounds to refuse the licence.

Given the driving endorsements, the Sub-committee concluded that they did not reach the threshold for refusal, although they were a matter for concern. It was highlighted that paragraph 13.1 of the Policy defined 'minor traffic offences' as offences that incurred between 1 and 3 penalty points. However, it did not follow that an offence that attracted four or more penalty points counted as a major traffic offence for the purposes of the Policy. A 'major traffic offence' was defined in paragraph 12.2 and the driving matters dating from October 2016 and March 2018 did not fall within those definitions. For the purposes of the policy, it was considered that the endorsement in May 2018 was the only one relating to a major traffic offence, and as the endorsement had occurred over ten months ago, (beyond the six-month period), the refusal under paragraph 12.3 would not be applicable.

Following confirmation from the applicant that he had received a fixed penalty notice and points in relation to the endorsements (not a criminal conviction), the Sub-committee was not of the opinion that there had been a technical breach of condition 6 of the hackney and private hire vehicle driving licence. However, the Sub-committee was of the opinion, as a good practice, that all matters should be reported, and it was recommended that the applicant should inform the Licensing Authority about any future endorsements.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant and the Licensing Unit would be in contact to confirm the licence documentation.

6. 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 applicant was invited to expand on his application and offer an explanation on the offences. He noted that Caernarfon Magistrates Court had allowed the applicant to retain his licence due to his personal circumstances. He explained that a number of points of the license would have expired by the end of February, that would therefore leave a total of five points. The applicant's representative noted that he had not received complaints about Mr A, and he stressed that he was a likeable, courteous and dependable character.

The applicant and his representative 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 / private hire vehicle driver's licence from Gwynedd Council.

In reaching its 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 and his representative during the hearing
- reference letters
- the Licensing Department's report along with the DBS statement and the applicant's driving licence report provided by the DVLA.

Specific consideration was given to the following matters.

The applicant had received three penalty points for speeding on two occasions in January 2016 (these points expired in January 2019). In February 2016 he received three points for speeding (due to expire in February 2019) and five further points in July 2016 (due to expire in July 2019). The applicant had no other convictions, notices or endorsements.

Paragraph 2.2 of the Council's Policy was considered, which 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 is 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 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.

Consideration was given to paragraph 12.2 that lists serious traffic offences for the purposes of the Policy. It was noted that SP20 (speeding) was not included on the list, and that paragraph 13.1 noted that traffic offences not listed in the Policy would be considered as 'minor traffic offences'. Paragraph 13.3 notes that more than one 'minor traffic conviction' (including speeding) could result in the refusal of an application, and where there are more than two offences and/or a

total of six points on the licence, a licensed driver may be referred to the Sub-Committee.

The Sub-committee concluded that the four incidents of speeding in 2016 meant that paragraph 13.3 was relevant to the discussion. However, the paragraph does not note that an application should be refused, and that this is only a possible option. It was decided that the threshold of 'two offences and/or six licence points' was in relation to a referral, and not a threshold for refusal by the Sub-committee.

The Sub-Committee agreed that the application had reached the threshold for referral as the applicant had been caught speeding on four occasions in 2016, and had eight live points on his licence. However, it was noted that three further points would expire before the end of February that would therefore leave a total of five points on his licence. The fact that the applicant had only received points and not criminal conviction for speeding was also considered.

Having weighed-up the information that had been submitted, the Sub-committee was of the opinion that the speeding offences were not sufficiently serious to warrant the refusal of the application.

The meeting commenced at 2.00 pm and concluded at 3.35 pm

CHAIRMAN