
GENERAL LICENSING SUB COMMITTEE 20/03/19

Present: Councillor Peter Read (Chairman), Councillors Steven Collings and Edgar Owen

Officers: Geraint B Edwards (Solicitor), Gwenan Mai Roberts (Licensing Manager), 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 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:

- The 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 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 applicant's driving licence report provided by the DVLA.

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 in turn. His employer confirmed that he knew the applicant well and that he was a good driver and a conscientious and reliable individual.

The applicant and his 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 Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- the applicant's application form
- verbal observations presented by the applicant during the hearing
- verbal observations presented by the applicant's employer during the hearing
- the applicant's driving licence report provided by the DVLA.

Specific consideration was given to the following matters

In May 2017, the applicant received three penalty points on his driving licence for breach of requirements regarding control of a vehicle, mobile phones, etc. (these points expire in May 2019). Six additional penalty points received in September 2017 for breach of requirements regarding control of a vehicle, mobile phones etc. (these points expire in September 2020) were also considered. In December 2017, the applicant received a further three penalty points for breaking the speed limit on a public road (these points expire in December 2020). The applicant had no further convictions, warnings or endorsements.

Consideration was given to paragraph 2.3 of the Council's Policy, where it is noted that 'other matters to be considered' may include 'fixed penalty notices or other penalty notices'.

Consideration was given to paragraph 12.2 that lists serious traffic offences for the purposes of the Policy.

Consideration was given to paragraph 13.1 which notes that other traffic offences not listed in the Policy would be treated as 'minor traffic offences'. The paragraph is also puzzling, as it refers to a 'minor traffic offence' as an offence incurring between 1 and 3 penalty points. Despite this, it is suggested that any offence attracting more than three penalty points and which is not included in paragraph 12.2, should be presented / considered as a 'minor traffic offence'.

Paragraph 13.3 states that more than one conviction for a minor driving offence or another matter to be considered could lead to an application being refused, especially if there are several convictions or other matters to be considered for the same offence.

As the applicant already had a hackney vehicle/private hire driver's licence, the

sub-committee considered condition 6 of his current licence. The condition 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 could apply, in which it is outlined that it is unlikely that an application would be approved unless a 12 month period has elapsed since the most recent breach.

Main observations arising from the discussion:-

- The Sub-committee established that the driving endorsements, although concerning, did not reach the threshold for application refusal.
- The offences were not considered to be major traffic offences as they were not listed in paragraph 12.2 of the policy – they were considered to be minor traffic offences.
- The Sub-committee concluded that there was more than one matter to be considered relating to the same offence - those occurring in May 2016 and September 2017 - meaning that paragraph 13.3 should be considered. However, unlike the Policy's other provisions, paragraph 13.3 does not set a presupposition in favour of refusal. It instead advises that the application '*may*' (rather than '*should*') be refused. Due to a lack of guidance, the Sub-committee were not convinced that this matter presented a case for refusal.
- 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 that all matters should be reported as a matter of good practice, and it was recommended that the applicant should inform the Licensing Authority about any future endorsements.
- Under the circumstances, the Sub-committee was satisfied that the applicant was a fit and proper person to hold a hackney vehicle/private hire driver's licence.

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

The meeting commenced at 1.35 pm and concluded at 2.05 pm

CHAIRMAN