
GENERAL LICENSING SUB-COMMITTEE 02-03-21

Present: Councillor Elfed Williams (Chair), Councillors Angela Russell and Eryl Jones Williams

Officers: Geraint Brython Edwards (Solicitor), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Democratic Services 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

It was **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 12A 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, or their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

The Chair welcomed everyone to the meeting. He explained that the decisions 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, with the aim of protecting the public by ensuring that:

- The person is a fit and proper person
- The person does not pose a threat to the public
- The public are safeguarded from dishonest persons
- Children and young people are protected
- Vulnerable persons are protected
- The public can have confidence in using licensed vehicles.

5. APPLICATION FOR A HACKNEY / PRIVATE HIRE DRIVER'S LICENCE – Mr A

The Licensing Officer presented a 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 according to the DBS record, the guidelines on criminal offences and relevant convictions. It was highlighted that the applicant had not declared any previous convictions on his application form and it was suggested that he expanded on this. The Licensing Authority recommended that the Sub-committee approved the application.

The applicant was invited to expand on his application and provide information about the background of the offences and his personal circumstances. He explained that he was ashamed of his behaviour when he was younger. After a period in prison he explained that

he had been determined to turn his life around and he had gone to college, followed a successful career and founded a business.

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 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- the applicant's application form
- the Licensing Department's report and the DBS statement
- the report of the Driver and Vehicle Licensing Agency
- the applicant's verbal representations
- The Driver and Vehicle Licensing Agency's guidelines

Specific consideration was given to the following matters:

In August 1994, the applicant was found guilty by Bangor Youth Court on one charge of assault causing actual bodily harm (ABH), contrary to s47 of the Offences against the Person Act 1861. He received a 12-month conditional discharge, ordered to pay damages of £20.00 and a bind over order.

In September 1998 the applicant was found guilty by Bangor Magistrates Court on two charges. One of assault causing actual bodily harm (ABH) contrary to s47 of the Offences against the Person Act 1861, and one of assault causing grievous bodily harm (GBH) contrary to section 20 of the same Act. He was imprisoned for 3 months for the offence of GBH, and was sentenced to 3 months' imprisonment for the ABH offence, to run consecutively.

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 he will be expected to have been free of any conviction for an appropriate period as stated in the Policy, and to show evidence that he is a fit and proper person to hold a licence. The onus was on the applicant to prove that he was a fit and proper person. Paragraph 2.4 states that when an applicant has a conviction(s) or there are other related matter(s) to be considered in connection with that, the Council cannot review the merits of the conviction or other matter.

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 6.0 of the Policy addresses violent offences. Paragraph 6.1 states that, since licensed drivers come into close contact regularly with the public, the sub-committee shall adopt a firm stance towards those who have offences involving violence. Paragraph 6.4 of the Policy states that a licence application will be refused if the applicant has a matter to be considered for serious bodily harm with intent, which happened less than ten years prior to the date of the application. Paragraph 6.5 of the Policy states that an application for a licence will usually be refused if the applicant has a matter to be considered for assault causing actual bodily harm which happened less than three years prior to the date of the application. Paragraph 6.6 of the Policy states that an application will normally be refused if an applicant has more than one conviction for an offence of a violent nature within the last ten years.

The Sub-committee concluded that the convictions from August 1994 and September 1998 were violent offences, however, since these convictions were made 26 and 22 years ago respectively (beyond the 10 year period), none of the presumptions for refusal under section 6 of the Policy stood, therefore there were no grounds to refuse the application.

Having carefully weighed up the evidence and information, the Sub-committee was in favour of approving the application and it was determined that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence.

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

6. APPLICATION FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE – Mr B

The Licensing Manager submitted a written report on the application received from Mr B for a hackney/private hire vehicle driver's licence. The Sub-committee was requested to consider the application according to the DBS record, the guidelines on criminal offences and relevant convictions. The Licensing Authority recommended that the Sub-committee approved the application.

The applicant was invited to expand on his application and provide information about the background of the offences and his personal circumstances. He explained that the convictions from 2001 were all the result of not receiving professional advice in an attempt to save his family business assets. He provided a full explanation of the situation together with information about the traffic offences. He noted that he worked with people with learning disabilities, and his aim was to offer a transport service to them and seek the appropriate qualification to be able to do so.

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 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- the applicant's application form
- the Licensing Department's report and the DBS statement
- the report of the Driver and Vehicle Licensing Agency
- the applicant's verbal representations
- The Driver and Vehicle Licensing Agency's guidelines

Specific consideration was given to the following matters:

In 1998 the applicant was disqualified from driving for 28 days after an incident of speeding at 107mph on the M6 motorway.

In May 2001, the applicant was found guilty by Mold Crown Court on a series of 10 charges. One charge of an undischarged bankrupt participating in, or involved with promoting or managing a company contrary to s11 of the Company Directors Disqualification Act 1986. Two charges of being involved in or of undertaking business with the intention of defrauding creditors, contrary to s458 of the same Act. Seven charges of obtaining property by deception, contrary to s15 of the Theft Act 1968. He received a two year prison sentence on one of the charges of obtaining property by deception, together with concurrent prison sentences on the other charges. He was also banned for 5 years from becoming a company director.

In September 2015 he received a SP30 for speeding (57mph in a 50mph zone on the A55 dual carriageway) – he received 3 penalty points on his driver's licence.

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 he will be expected to have been free of any conviction for an appropriate period as stated in the Policy, and to show evidence that he is a fit and proper person to hold a licence. The onus was on the applicant to prove that he was a fit and proper person. Paragraph 2.4 states that when an applicant has a conviction(s) or there are other related matter(s) to be considered in connection with that, the Council cannot review the merits of the conviction or other matter.

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 8.0 of the Policy, which deals with dishonesty offences, was considered together with paragraph 8.1 which states that a serious view shall be taken of any conviction involving dishonesty. Paragraph 8.2 states that an application would normally be refused where the applicant has a conviction for a listed offence, and was convicted less than three years prior to the date of the application. It was noted that the list of offences included, amongst others, fraud, obtaining property by deception, and theft.

Section 12 of the Policy relates to motoring convictions, with paragraph 12.2 listing major traffic offences for the purposes of the Policy. Section 13 relates to minor traffic offences and mainly refers to offences that are not listed in paragraph 12.2 of the Policy. It is noted in paragraph 13.3 that more than one conviction for a minor driving offence or other matter to be considered could lead to refusal of an application, especially if there are several convictions or other matters to be considered for the same offence, e.g. speeding.

The Sub-committee concluded that the incident in 1988 classed as a matter to be considered for a minor traffic offence, namely speeding.

The Sub-committee concluded that the 2001 conviction related to offences of dishonesty, however, as these convictions were made 19 years ago (which was beyond the three year period), section 8 of the Policy did not stand, and was therefore not grounds for refusing the application.

The Sub-committee concluded that the incident in 2015 related to a matter to be considered for a minor traffic offence. Together, the speeding incidents in 1988 and 2015 could be grounds for refusing the application. However, the Policy recommendation in paragraph 13.3 is that it may be grounds for refusal, rather than stating that the application should be refused. The Sub-committee took account of the fact that there was a 26 year period between both incidents, that the 1988 incident had taken place on a motorway and that the 2015 incident was of speeding 7mph above the limit of 50mph on a dual carriageway. The Sub-committee was satisfied that these incidents should not be grounds for refusing the application either.

Having carefully weighed up the evidence and information, the Sub-committee was in favour of approving the application and it was determined that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence.

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

7. APPLICATION FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE – Mr C

The Licensing Officer presented a written report on the application received from Mr C for a hackney/private hire driver's licence. The Sub-committee was requested to consider the application according to the DBS record, the guidelines on criminal offences and relevant convictions. It was highlighted that the applicant had not declared a previous convictions on his application form and it was suggested that he expanded on this. The Licensing Authority recommended that the Sub-committee approved the application.

The applicant's representative was invited to expand on the applicant's application and provide information about the background of the conviction and his personal circumstances. It was explained that the applicant had declared his previous conviction verbally, but had not included it on the application form (the licensing officer confirmed that this was true).

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 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- the applicant's application form
- the Licensing Department's report and the DBS statement
- verbal representations made by the applicant's representative
- The Driver and Vehicle Licensing Agency's guidelines

Specific consideration was given to the following matters:

In January 2016 the applicant was found guilty by Anglesey Magistrates' Court of causing a dangerous incident on/over a road contrary to s22 of the Road Traffic Act 1988. He was fined £155.00, ordered to pay costs of £85 and additional costs of £20.

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 he will be expected to have been free of any conviction for an appropriate period as stated in the Policy, and to show evidence that he is a fit and proper person to hold a licence. The onus was on the applicant to prove that he was a fit and proper person. Paragraph 2.4 states that when an applicant has a conviction(s) or there are other related matter(s) to be considered in connection with that, the Council cannot review the merits of the conviction or other matter.

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.

Section 12 of the Policy relates to motoring convictions, with paragraph 12.2 listing major traffic offences for the purposes of the Policy. Section 13 relates to minor traffic offences and mainly refers to offences that are not listed in paragraph 12.2 of the Policy. Paragraph 13.1 defines a 'minor traffic offence' as an offence that receives 1 - 3 penalty points. Paragraph 13.2 was considered which states that when an applicant has one conviction for a minor driving offence this would not usually lead to refusal of the application.

The Sub-committee concluded that the incident in 2016 was classed as a matter to be considered as a minor traffic offence. A single conviction for a minor traffic offence would not normally lead to refusing an application, therefore the Sub-committee could not see any reason to justify a departure from this stance.

Having carefully weighed up the evidence and information, the Sub-committee was in favour of approving the application and it was determined that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence.

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

The meeting commenced at 10.00am and concluded at 11.45am.