
GENERAL LICENSING SUB-COMMITTEE 01-11-21

Present:

Councillors: Councillor Annwen Hughes (Chair)
Councillors Steve Collings and John Brynmor Hughes

Officers: Siôn Huws (Senior Solicitor), Gwenan Mai Roberts (Licensing Manager)
and Lowri Haf Evans (Democratic Services Officer)

1. APOLOGIES

An apology was received from the applicant Mr A

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.

5. The Chair welcomed everyone to the meeting. She 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 have confidence in using licensed vehicles

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

The Licensing Officer presented a written report on an application received from Mr A for a hackney carriage/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. The Licensing Authority recommended that the Sub-committee approved the application.

The applicant's representative (his prospective employer) was invited to expand on Mr A's application and provide information about the background of the convictions and his personal circumstances. It was noted that the applicant was remorseful and that he now had a responsible job and served the public daily. He explained that he only received a caution and that the date of the conviction had now elapsed the three-year period. It was also noted, in cases where there were historical convictions, that Gwynedd Council's Licensing Policy needed to be reviewed.

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 applicant's verbal representations
- The Driver and Vehicle Licensing Agency's guidelines

Specific consideration was given to the following matters:

In January 2017, the applicant was found guilty by North Wales Police of using threatening, aggressive/insulting language likely to cause harassment, alarm or distress contrary to the Public Order Act 1986. The applicant received a caution for the offence.

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 consider 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 6.5 of the Policy states that an application for a licence will usually be refused if the applicant has a matter to be considered for common assault and/or criminal damage and/or an offence under the Public Order Act 1986 which occurred less than three years before the date of application.

The Sub-committee determined that the September 2017 conviction was a violence-related offence. However, as the offence had been issued over 3 years ago, there were no presumptions to refuse under Part 6 of the Policy as it was irrelevant, and therefore there was no basis to refuse the application. No subsequent convictions and no evidence had been presented to suggest that the Policy should not be adhered to in this case.

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. The Chair welcomed everyone to the meeting. She 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 have confidence in using licensed vehicles

APPLICATION FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE - Mr B

The Licensing Manager submitted the written report on the application received from Mr B 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. The Licensing Authority had recommended that the Sub-committee should refuse the application.

The applicant was invited to expand on the application and provide information about the background of the offences and his personal circumstances. He noted that he was remorseful and by now had matured. He noted that he had a responsible job in the care sector and that he needed an additional job to pay for his children's care fees as he and his wife worked full time. He added that he had disclosed the offences to his employer.

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 applicant's verbal representations
- The Driver and Vehicle Licensing Agency's guidelines

Specific consideration was given to the following matters:

In September 2016, the applicant was found guilty by Gwynedd Magistrates' Court of driving a car under the influence of alcohol contrary to the requirements of the Road Traffic Act 1988. He was fined £300, ordered to pay costs of £85 and was banned from driving for 18 months (that could be reduced if a driving course was attended) including an additional payment of £30.

In April 2017, the applicant was found guilty by North Wales Police of using threatening, aggressive/insulting language likely to cause harassment, alarm or distress contrary to the Public Order Act 1986. The applicant received a community order, costs of £85, additional costs and an application to complete a rehabilitation workshop

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 was 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 consider 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 6.5 of the Policy states that an application for a licence will usually be refused if the applicant has a matter to be considered for common assault and/or criminal damage and/or an offence under the Public Order Act 1986 which occurred less than three years before the date of application.

Paragraph 11.0 which addressed drink-driving offences, was considered. In paragraph 11.1, it was noted that a serious view would be taken of convictions for driving or being responsible for a vehicle under the influence of alcohol / drugs. Anyone who had been found guilty of offences relating to drink-driving was unlikely to receive a licence until they had been free from a conviction(s) for at least three years.

Paragraph 16.1 of the Policy deals with repeat offences. Firstly, it must be ensured that the convictions satisfy the policy guidelines individually, but that they together create a history of repeat offending that indicates a lack of respect for the welfare and property of others. The Policy states that ten years must have elapsed since the most recent conviction.

The Sub-committee concluded that the conviction from 2016 was in relation to drink driving and the conviction from 2017 was in relation to violence. They were content that the period of time noted in the Policy, where applications should be refused due to such offences had passed in the case of both matters. However, as there was a 'pattern' of re-offending the matter was considered under paragraph 16.1. Under this paragraph the policy states that the application should be refused if a period of 10 years has not elapsed since the last conviction. As such a period of time had not elapsed, the sub-committee considered if there were any reasons and evidence presented to persuade them differently.

The pattern of re-offending was considered and it was noted that both convictions had taken place close together (in 2016 and 2017) and that there were no further convictions afterwards. The applicant's evidence regarding the nature of the offences was also considered and the explanation given regarding the background to the offences and personal circumstances.

Having weighed-up the evidence and the information carefully, the Sub-committee decided that the nature of re-offending and the evidence of what had occurred since the last conviction justified deviating from the Policy. Consequently, 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 15:00 and concluded at 16:10