
GENERAL LICENSING SUB-COMMITTEE 22-04-2022

Present:

Councillors: Councillor Annwen Hughes (Chair)
Councillors Edgar Owen and Elfed Williams

Officers: Iwan Evans (Head of Legal Services), 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.

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

The Chair welcomed everyone to the meeting. He explained 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, 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.

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 in accordance with the DBS record, the guidelines on criminal offences as well as the Driver and Vehicle Licensing Agency's report. The Licensing Authority recommended that the Sub-committee approved the application.

In response to a question from the Head of Legal Services to the Licensing Officer, it was confirmed that it was the individual's responsibility to present the DBS report to the Licensing Authority. It was also confirmed that consideration had not been given to the three points for speeding as they were not contrary to policy and not a reason to refuse the application.

In response to a question from the applicants' representative to the Licensing Officer regarding the application, it was confirmed that Premier Cars Company present a number of applications and are always ready to collaborate, are open and very aware of the arrangements

The applicant's representative was invited to expand on the application and provide information about the background of the offences and the applicant's personal circumstances. It was noted that the applicant's circumstances at the time were hard, but since then he had turned his life around by caring for his daughter and his father. It was added that the application form was completed by Premier Cars Office Manager and that there was no intention from the applicant to mislead the Sub-committee by not including the details regarding being banned from driving for 18 months in 2016. In accordance with Policy requirements, it was explained that a period of three years had elapsed since the ban and that there were no other offences to consider. The applicants wish was to return to work in order to support his daughter.

In response to a question from a Member of the Sub-committee in relation to completing the application form and that the 'wrong box' had been ticked, the applicant's representative noted that this was a mistake from the Office Manager and that there was no intent to trick the sub-committee. It was added that the application had been done in goodwill and that it was the company who made the application for a DBS form as a method of preparing for the hearing.

In response to a question from the Head of Legal Services, it was confirmed that it was the applicant who signed the form.

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 along with the DBS statement and the DVLA's report
- the applicant's representative'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. The applicant received a driving ban for 18 months (which was reduced by 4 months if he completed the course), fined £260, ordered to pay costs of £85 and additional costs of £30.

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 2.3 states, for the purpose of the Policy, that 'other matters for consideration' include, amongst others, criminal /driving convictions

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 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 13.1 was considered, relating to minor traffic offences and refers mainly to offences that are not listed in paragraph 12.2 of the Policy with paragraph 13.1 defining 'minor traffic offences' as offences that incurred between 1 and 3 penalty points. Paragraph 13.2 was considered, which highlights that one conviction for a minor traffic offence can lead to refusing the application.

The Sub-committee determined that the September 2016 conviction was in relation to drink driving. They were content that the period of time noted in the Policy where applications should be refused due such offences had elapsed. The Sub-Committee noted that the one conviction from 2016 had also led to a driving ban until June 2018. With the licence reinstated in June 2018 and no evidence of further offences, the Sub-committee, in accordance with the policy, were satisfied that an appropriate period of time had elapsed.

In addition, the sub-committee found that the event in 2020 was related to a minor traffic offence. Having considered paragraph 13.2 of the Policy, the Sub-committee was of the opinion that this offence should not be grounds to refuse the application.

The error on the applicant's application form was considered which failed to include convictions disclosed in the DBS report on the application form. An explanation from the employer was received that this was an error on behalf of the company and was not done deliberately. The applicant was reminded, that by signing the form, he was taking responsibility for the content but the Sub-committee was ready to accept that it was a mistake signing the form without checking the content this time.

The Sub-committee accepted, although the applicant did not excuse the offence that his personal circumstances at the time were very difficult. They were also satisfied that his circumstances had changed since then and there was no evidence that the behaviour was typical of him.

Having weighed up the evidence and the information carefully, the Sub-committee determined 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 applicant's representative was encouraged to ensure that applicants in the future check and take responsibility for their application forms.

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

The applicant's representative took the opportunity to thank the Licensing Department for their support during the pandemic - this had been very challenging time for everyone.

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

The Chair welcomed everyone to the meeting. He explained 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, 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

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 in accordance with the DBS record, the guidelines on criminal offences as well as the Driver and Vehicle Licensing Agency's report. The Licensing Authority recommended that the Sub-committee should approve the application.

The applicant was invited to expand on the application and provide information about the endorsements on his driving licence and his personal circumstances. He made reference to the 6 points he received for not having car insurance and stated that he was providing food for a vulnerable individual during lockdown. He accepted that he should be aware that he had social use on the car and not business use. He noted that he enjoyed driving and that he understood and accepted the job requirements.

In response to a question from the Licensing Officer, the applicant noted that he had not received confirmation of his employment with 'Huw's Taxis' company but he had discussed work with local companies.

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 along with the DBS statement and the DVLA's report
- the applicant's verbal representations
- The Driver and Vehicle Licensing Agency's guidelines

Specific consideration was given to the following matters

In May 2020 the applicant received six penalty points for using a vehicle without insurance against third party risks as well as three penalty points for breaking the statutory speed limit on a public road in September 2020. As a result, he received nine 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 2.3 states, for the purpose of the Policy, that 'other matters for consideration' include, amongst others, criminal /driving convictions

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 driving convictions, and paragraph 12.2 lists major traffic offences for the purposes of the Policy. Amongst the offences were IN10 (use of a vehicle uninsured against third party risks). Paragraph 12.3 states that an application will be refused if there is a conviction against the applicant and he/she has not been free of the conviction for at least six months.

Part 13 relates to minor traffic offences and refers mainly to offences that are not listed in paragraph 12.2 of the Policy with paragraph 13.1 defining 'minor traffic offences' as offences that incurred between 1 and 3 penalty points. Paragraph 13.2 was considered that states that when an applicant / licence holder has one conviction for a minor driving offence, or other matters to be considered associated with this, this would not usually lead to an application refusal or prevent / suspend a licence.

The Sub-committee concluded that the May 2020 conviction was a serious traffic offence. However, as the period of time noted in the Policy where applications should be refused as a result of such offences had elapsed and the offences had not affected the suitability of the applicant as a taxi driver, it was not grounds to refuse the application under paragraph 12.4. In addition, the September 2020 incident related to a minor traffic offence and having considered paragraph 13.2 of the Policy, the Sub-committee found that this offence also should not be grounds for refusal.

The Sub-committee determined in favour of approving the application and 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 13 :30 and concluded at 14:45