
GENERAL LICENSING SUB-COMMITTEE 08.12.2020

Present: Councillor Elfed Williams (Chair), Councillors Dafydd Owen and Gareth 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.

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

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 an application received from Mr A for a hackney carriage/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 and relevant convictions. The Licensing Authority recommended that the Sub-committee should approve 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. He explained that the incidents that were recorded on the DBS were historical. It was noted that Mr A had been working as a courier for a number of years

and that he now wished to change direction. It was also noted, in cases where there were historical convictions, that Gwynedd Council's Licensing Policy needed to be reviewed.

b) **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.**

c) 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 verbal representations from the applicant's prospective employer
- The Driver and Vehicle Licensing Agency's guidelines

ch) Specific consideration was given to the following matters:

In June 1985, the applicant was found guilty by Bangor Magistrates Court on three charges of theft, contrary to s1 Theft Act 1968. He received community service orders of 300 hours for these convictions.

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 any conviction for an appropriate period as stated in the Policy, and to show evidence that the individual 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 of the policy notes that when an applicant has a conviction(s) or other related matter(s) to be considered, 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 that states that a serious view should be taken of any conviction involving dishonesty. Paragraph 8.2 notes that an application would normally be refused where the applicant has a conviction for a listed offence, and that the conviction was received less than three years prior to the date of the application. It was noted that the list of offences included burglary, amongst other offences.

d) The Sub-committee came to the conclusion that the conviction in June 1985 was an offence of dishonesty; however, as these convictions had occurred over 35 years ago, paragraph 8.2 was irrelevant and, therefore, there was no basis to refuse the application.

Having carefully considered 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

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 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 and relevant convictions. 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 background of the offences and his personal circumstances. He explained that the incidents that were recorded on the DBS were historical. It was noted that Mr B, when he was young, had mixed with the wrong crowd, that his convictions were spent, and that he had been free from any offences for 37 years.

b) **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.**

c) 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 observations by the applicant
- The Driver and Vehicle Licensing Agency's guidelines

ch) Specific consideration was given to the following matters:

In September 1972, the applicant was found guilty by Tywyn Magistrates Court for criminal damage contrary to s1 Criminal Damages Act 1971. He received a fine of £100.00 and was ordered to pay damages of £13.00.

In October 1972, the applicant was found guilty by Tywyn Magistrates Court for common assault contrary to s42, 47 Offences Against the Person Act 1861, and possession of an offensive weapon contrary to s1 Prevention of Crime Act 1953. He received a conditional discharge and his weapon was confiscated.

In October 1975, the applicant was found guilty by Tywyn Magistrates Court for a series of 12 charges. Two charges relating to making threatening telephone calls (contrary to s78 Post Office Act 1969): One charge of posting an article on Post Office property (contrary to s61 Post Office Act 1969): one charge of causing criminal damage (contrary to s1 of the Criminal Damage Act 1971): four charges of carrying an air gun in a public place (contrary to s19 Firearms Act 1968): One charge of using threatening / aggressive / insulting language (contrary to the s5 Public Order Act 1936): Three charges of firing a weapon within 50 metres of a highway (contrary to s161 Highways Act 1980). He received orders, fines and costs, and was sentenced to three months in a detention centre.

In September 1982 the applicant was convicted by Tywyn Crown Court on a charge of inflicting injury to a person through a serious physical attack contrary to s20 Offences Against the Person Act 1861. He received a six-month prison sentence (suspended for two years), a fine of £100.00 and ordered to pay costs of £3.00.

In September 1983, the applicant was found guilty by Tywyn Magistrates Court of wasting Police time (contrary to s5(2) Criminal Law Act 1967) and for the use of threatening / abusive / insulting language (contrary to s5(1) (a) Public Order Act 1986). He received a fine of £300.00 and was ordered to pay costs of £3.00.

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 any conviction for an appropriate period as stated in the Policy, and to show evidence that the individual 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 of the policy notes that when an applicant has a conviction(s) or other matter(s) to be considered for a criminal offence, 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 an application for a licence will usually be refused if the applicant has a matter to be considered for serious common assault with intention and/or a firearm in their possession, that is 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 common assault and/or criminal damage and/or an offence under the Public Order Act 1986 which happened less than three years before the date of 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.

- d) The Sub-committee came to the conclusion that all the convictions listed above were violence-related, however, as the last conviction dated from 1983, 37 years ago, paragraphs 6.4, 6.5 and 6.6 were irrelevant and, therefore, there was no reason to refuse the application.

Having carefully considered 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 14:00 and concluded at 15:10