
GENERAL LICENSING SUB-COMMITTEE 22.10.2020

Present: Councillor Elfed Williams (Chair), Councillors John Brynmor Hughes and Edgar Owen

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 was invited to expand on the application and provide information about the background of the convictions and his personal circumstances. The applicant explained that the incidents recorded on the DBS were historical and that he now had a family and

was an experienced HGV and PSV driver. His intention was to establish a business for his sons.

b) **RESOLVED that the applicant was a fit and proper person to be issued with a hackney carriage/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 applicant's medical certificate
- the Licensing Department's report and the DBS statement
- the applicant's verbal representations

ch) Specific consideration was given to the following matters

In May 1991 the applicant was found guilty by Bangor Magistrates Court for a charge of criminal damage (contrary to s1 of the Criminal Damages Act 1971), obtaining money through deception (contrary to s15 of the Theft Act 1968) and theft (contrary to s1 of the Theft Act 1968). He received total fines of £275, and was ordered to pay £53.00 in damages and costs of £15 for obtaining money through deception.

In December 1991, the applicant received a conviction from Caernarfon Magistrates' Court for a charge of criminal damage contrary to s1 of the Criminal Damage Act 1971. He received a fine of £100 and was ordered to pay damages of £276.91.

In May 1998, the applicant was found guilty by Caernarfon Magistrates Court on a charge of serious / aggravated burglary contrary to s10 of the Theft Act 1968. The applicant received a three year prison sentence.

In August 2000, the applicant was found guilty by Aberconwy Magistrates' Court of failure to provide a test sample contrary to s7 of the Road Traffic Act 1988. He received a fine of £200, an order to pay costs of £35 and was disqualified from driving for 20 months with an option to reduce the penalty period by 25% by completing a course by September 2001.

In October 2001 the applicant was found guilty by Denbighshire Magistrates' Court for using a vehicle without insurance, contrary to s143 of the Road Traffic Act 1988 and driving while disqualified, contrary to s103 of the Road Traffic Act 1988. He did not receive a penalty for using a vehicle without insurance but he received a community penalty order for 80 hours, an order to pay costs of £55, and was banned from driving for 12 months for driving while disqualified.

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 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 violence-related offences. 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.

Paragraph 8.0 of the Policy, which deals with dishonesty offences, was considered together with paragraph 8.1 that states that a serious view shall 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 and obtaining property by deception, amongst other offences.

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. A conviction for 'refusing or failing to provide a sample' is dealt with in the same manner.

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 BA10 (driving while disqualified under a Court order) and IN10 (use of an uninsured vehicle). It is noted that an application will normally be refused (12.10) where the applicant has a recent conviction resulting in a period of disqualification of 12 months or more, unless a period of at least 18 months has elapsed from the end of the disqualification period.

- d) The Sub-committee concluded that the convictions in May and December 1991 were violence-related offences. However, since the last offence had occurred over ten years ago, paragraph 6.6 was irrelevant, and there were no grounds to refuse the application.

The Sub-committee came to the conclusion that the convictions and charges in May 1991 and September 1998 were offences of dishonesty, however, as these convictions had occurred over three years ago, paragraph 8.2 was irrelevant and, therefore, there was no basis to refuse the application.

The Sub-committee came to the conclusion that paragraph 11.1 was irrelevant in relation to the August 2000 conviction as the conviction was more than three years old. In terms of the October 2001 conviction (for two traffic offences), the Sub-Committee found that the charges were serious traffic offences, however, as the driving disqualifications had ended more than 18 months ago, the Sub-committee was of the view that paragraph 12.10 was not grounds 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 14:50