
GENERAL LICENSING SUB-COMMITTEE 06.10.2020

Present: Councillor Elfed Williams (Chair), Councillors Angela Russell and Gareth T M Jones

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 offences and his personal circumstances. The applicant explained that the incidents that were recorded on the DBS were historical incidents and that he had now

matured, changed his behaviour and was now a parent. He added that he had been offered a job as a taxi driver should his application be approved.

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 had 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

ch) Specific consideration was given to the following matters

In October 2010, the applicant was found guilty by Gwynedd Magistrates Court of disorderly behaviour or the use of threatening / abusive / insulting language likely to cause harassment, alarm or distress contrary to s5 (1) (A) of the Public Order Act 1986. He received a conditional discharge for 12 months and an order to pay costs of £85.00. In March 2011, the applicant was found guilty by Gwynedd Magistrates Court of common assault contrary to s39 of the Criminal Justice Act 1988. He was given a community order of six months, a two month curfew with an electronic tag to remain at an address in the Barmouth area every day between 19:00 and 07:00 and an order to pay costs of £85.00.

In September 2019, he received three penalty points for a speeding incident. The applicant verbally confirmed that details on the licence (provided by the Driver and Vehicle Licensing Agency) were accurate and that he had been issued with a fixed penalty notice from the Police for this incident. He also confirmed that he had been speeding in a further incident on an unspecified date, but that he had attended a speed awareness course in relation to the incident in question.

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 2.3 of the Policy confirmed that "other matters to be considered" included cautions. 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 6.5 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 that is less than three years prior to the date of the application along with a conviction under Section 5 of the Public Order Act 1986. 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.

Section 13 relates to minor traffic offences and mainly refer to offences that are not listed in paragraph 12.2 of the Policy. Paragraph 13.2 was considered which highlighted that one conviction for a minor driving offence could lead to an application being refused. It is noted in paragraph 13.3 that more than one conviction for a minor driving offence or another matter to be considered could lead to an application being refused, especially if there are several convictions or other matters to be considered for the same offence, e.g. speeding.

- d) The Sub-committee determined that the speeding incidents amounted to minor traffic offences. Although the Policy approved the refusal of the application under these circumstances, the Sub-committee was of the opinion that the applicant had not been convicted and that he had attended a speed awareness course for one incident, and that the speeding incidents should not be a reason for refusing the application.

The Sub-committee concluded that the convictions in October 2010 and March 2011 were violence-related offences. Although the applicant was convicted, both cases had occurred over three years ago and, therefore, were not a reason to refuse the application under paragraph 6.5. However, with two convictions for violence-related offences occurring within 10 years of the application, the Sub-committee had to consider refusing the application under paragraph 6.6.

The Solicitor highlighted that the Policy's provisions were not mandatory and that the Sub-committee could deviate from the recommendations if the facts of the case justified that. Particular consideration was given to paragraph 5.1 of the report which addressed the seriousness of the offences, their relevance, the date they were committed, the date of conviction and the applicant's age at the time of conviction, the sentence given by the Court and whether the offences related to a pattern of offending, as well as any other relevant factors.

The Sub-committee gave specific consideration to the fact that, on the date of the hearing, the conviction in October 2010, was three weeks short from the 10 year period. The conviction in March 2011 had also occurred over 9 years ago. Should the hearing for this application be held three weeks in future, no considerations would be given to paragraph 6.6. Also, it was added that although the applicant had offended in the past, he had now matured and evidence of this could be seen in the DBS record and a clean slate had been maintained for nearly a decade.

Having carefully weighed up the evidence and the information, the Sub-committee was willing to deviate from the presumption in favour of refusing the application in this case and it was resolved that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence. The applicant was encouraged to accept the opportunity and to reduce his speed and drive responsibly.

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

The meeting commenced at 11.00am and concluded at 11.55am.