
GENERAL LICENSING SUB COMMITTEE 21/02/18

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

Officers: Geraint B Edwards (Solicitor), Gwenan M Roberts (Licensing Manager) and Lowri Haf Evans (Member Support 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

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 12 A, 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, nor 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 LICENCE

The Chairman welcomed everyone to the meeting. He highlighted 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 and the aim was to protect the public by ensuring that:

- A person is a fit and proper person
- The person does not pose a threat to the public
- That the public are safeguarded from dishonest persons
- The safeguarding of children and young people
- The safeguarding of vulnerable persons
- The public have confidence in their use of licensed vehicles.

The Licensing Manager presented a written report on the application received from Mr A. for a hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the DBS record, and the guidelines on relevant criminal offences and convictions.

The applicant's representative (and prospective employer) was invited to expand on the application and provide information about the background of the applicant's offences. He highlighted that they were historical offences and the applicant accepted that he had made errors in the past, however, his focus was now on raising and supporting his family. Although he had a full time job, it was noted that he required a flexible job in order to be able to spend time supporting his son who attended football training sessions in Manchester.

In reply to a question asking if the employer was willing to employ a person with offences relating to dishonesty, he stated that he was willing to give him an opportunity.

The applicant and his representative withdrew from the room while the Sub-committee members discussed the application.

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.

In reaching their decision, the Sub-committee considered the following:

- the requirements of the 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- the applicant's application form
- verbal observations presented by the applicant and his representative during the hearing
- the Licensing Department's report along with the DBS statement disclosing the convictions

Specific consideration was given to the following matters.

The applicant had received a conviction from Bangor Youth Court (March 1995) for robbery and common assault. As a result, he received a community service order. The applicant had received a conviction from Bangor Youth Court (March 1996) for common assault and affray. As a result, he received a community service order, an order to pay damages of £50.00 and costs of £150.00. He received a conviction from Bangor Magistrates' Court (September 1999) for being drunk and disorderly. He was given a fine of £35.00 and an order to pay costs of £65.00. He received a conviction from Conwy Magistrates Court (May 1996) for using abusive language and threatening behaviour with the intent to cause fear or induce violence, and common assault. For these offences he received a community order, curfew of 3 months and an order to pay costs of £60.00.

Paragraph 2.2 of the Council's Policy was considered, this 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 conviction for an appropriate period as stated in the Policy, and to show evidence that he or she was a fit and proper person to hold a licence.

It was highlighted that paragraph 4.5 of the Council policy stated that a Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 allowed the Sub-committee to take into account all convictions recorded against

an applicant, whether spent or not.

Paragraph 6.5 of the policy was considered, which states that an application will normally be refused if the applicant had a conviction for an offence of a violent nature during the last 3 years. Furthermore, paragraph 6.6 of the policy was considered, which states that an application will normally be refused if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

Paragraph 8.2 was considered, which states that an application will normally be refused where the applicant has a conviction that is less than 3 years prior to the date of the application for a dishonesty offence (this includes theft). Although the 1985 conviction included dishonesty offences, it was considered that this had occurred over 3 years ago and therefore the Sub-committee was of the view that these offences were not a reason to refuse.

It was highlighted that the rest of the DBS statement related to offences of a violent nature. However, only one of those offences had occurred during the last 10 years, (9 years 9 months ago from the date of the Sub-committee hearing). Under the circumstances, the Sub-committee was satisfied having considered paragraphs 6.5 and 6.6 that none of these convictions should be a reason for refusing the application.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant with details of his right to appeal.

6. APPLICATION FOR A HACKNEY/PRIVATE HIRE LICENCE

The Chairman welcomed everyone to the meeting. He highlighted 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 and the aim was to protect the public by ensuring that:

- A person is a fit and proper person
- The person does not pose a threat to the public
- The public are safeguarded from dishonest persons
- The safeguarding of children and young people
- The safeguarding of vulnerable persons
- The public have confidence in their use of licensed vehicles.

The Licensing Manager submitted the written report on the application received from Mr B for a new hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the DBS record, and the guidelines on relevant criminal offences and convictions.

The applicant was invited to expand on the application and provide information about the background of the offences. He highlighted that they were historical offences that had occurred when he was a teenager. He admitted that he had done foolish things. By now he did voluntary work in the community and his neighbour highlighted that the offences were not a reflection of his character now.

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.

In reaching their decision, the Sub-committee considered the following:

- the requirements of the 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire'
- the applicant's application form
- verbal observations presented by the applicant and his neighbour during the hearing
- the Licensing Department's report along with the DBS statement that disclosed convictions

Specific consideration was given to the following matters.

The applicant received a conviction from Leek Magistrates' Court (May 1988) for a charge of stealing a vehicle and three minor traffic offences. As a result he received a fine of £260.00 and an order to pay costs of £30.00, and was banned from driving for 6 months. The applicant received a conviction from Leek Magistrates' Court (November 1988) for a charge of taking a vehicle without authority, whilst he was banned from driving, driving without insurance and driving a vehicle under the influence of alcohol. The applicant received a conviction from Leek Magistrates' Court (March 1989) for two offences of criminal damage. He received a probation order for 2 years and an order to pay damages of £111.00. The applicant received a conviction from East Dorset Magistrates' Court for driving a vehicle under the influence of alcohol. He received a fine of £200.00, an order to pay costs of £55.00, and was banned from driving for 3 years. He received a conviction from East Dorset Magistrates' Court (February 2002) for being drunk and disorderly. He was given a conditional discharge of 6 months and an order to pay costs of £55.00.

Paragraph 2.2 of the Council's Policy was considered, this 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 conviction for an appropriate period as stated in the Policy, and to show evidence that he or she was a fit and proper person to hold a licence.

It was highlighted that paragraph 4.5 of the Council policy stated that a Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 allowed the Sub-committee to take into account all convictions recorded against an applicant, whether spent or not.

Furthermore, paragraph 6.6 of the policy was considered, which states that an application will normally be refused if an applicant has more than one conviction in the last 10 years for an offence of a violent nature. Paragraph 8.2 was considered, which states that an application will normally be refused where the applicant has a conviction that is less than 3 years prior to the date of the application for a dishonesty offence (this includes theft). Paragraph 11.2 was considered, this notes that applicants with more than one conviction for driving under the influence of alcohol are unlikely to be granted a licence unless a period of 10 years has elapsed after the restoration of the licence following the last conviction.

Paragraph 12.4 was considered, this states that an applicant with more than one major traffic offence, within the last 5 years will normally be refused and no further application should be considered until a period of at least 3 years free from such convictions have elapsed. It was noted that such offences included driving without insurance and driving while disqualified.

Paragraph 12.10 was considered, this states that an application will normally be refused where the applicant has a recent conviction resulting in a period of disqualification of up to 12 months or more, unless a period of at least 18 months has elapsed from the end of the disqualification period.

Although there was evidence of re-offending, offences of a violent nature (1989 - criminal damage and 2002 - drunk and disorderly), the Sub-committee was of the opinion that these offences were not a reason to refuse the licence as they were historical convictions (over 10 years old). With further evidence of re-offending for offences of dishonesty (1988 - theft of a vehicle without authority) the Sub-committee found that these were over three years old and therefore there was no reason for refusing the application. There was also evidence of re-offending of motoring offences (1988 - minor traffic offences, driving without insurance and driving when disqualified), however as these were convictions that were over five years old, the Sub-committee's view was that these offences were not a reason to refuse the application. With evidence of re-offending in relation to drink driving in 1989 and 2001, that led to being banned from driving, it was considered that both convictions were more than 10 years old and therefore as a period of 18 months had elapsed since the last period had ended, the Sub-committee was of the opinion that these offences were not a reason to refuse the application.

The Sub-committee noted that the applicant has not received any convictions since 2002 and had kept a clean slate for 16 years. In addition, observations were received from his neighbour who applauded him for undertaking voluntary work within the community.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant with details of his right to appeal.

The meeting commenced at 10.45 am and concluded at 11.45 am

CHAIRMAN