
GENERAL LICENSING SUB COMMITTEE 27/11/18

Present: Councillor Elfed Williams (Chair), Councillors Edgar Owen and Jason Wayne Parry

Officers: Geraint B. Edwards (Solicitor), Rhian Jones (Licensing Manager), Robert Taylor (Licensing Enforcement Officer) 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 applicant's representative was invited to expand on the application and provide information about the background of the offence and the applicant's

personal circumstances. It was noted that Mr A had received a conviction for a series of offences relating to being in possession of an offensive weapon. He highlighted that the offences were historical and there was no element of violence associated with the incident. It was added that the applicant had now settled in Anglesey and was seeking employment to support himself and his partner. It was noted that he had a clean driving licence.

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 convictions.

Specific consideration was given to the following matters.

The applicant had received a conviction for a series of offences from Arbroath Sheriff Court (March 2004). The first offence related to being in possession of an offensive weapon contrary to Section 47 of the Criminal Law Act (Scotland) 1995, and he received a fine of £200.00. The second offence was due to failure, or without reasonable excuse, to appear at court contrary to the Criminal Procedure Act (Scotland) 1995, and he received a fine of £50.00. The third offence was for breaching the peace and he received a fine of £100.00.

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/she is a fit and proper person to hold a licence. The applicant has a responsibility to show that he/she is a fit and proper person.

Paragraph 4.5 of the Council policy was considered which stated that the 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 otherwise under the 1974 Act.

Paragraph 6 of the Policy deals with offences of violence and paragraph 6.5 states that an application for a licence will normally be refused if the applicant has a matter to be considered (including warnings) for common assault that is less than three years prior to the date of application. This paragraph lists amongst other matters offences that deal with being in possession of a weapon other than a gun, and similar offences.

The Sub-committee concluded that the conviction from 2004 was in relation to a violent offence. The offence of being in possession of a weapon had occurred in Scotland, and it was considered in the same manner as being in possession of a weapon in Wales and it was therefore sensible to consider this under paragraph

6.5 of the policy. However, as the conviction dated back to over 14 years ago, (beyond the policy requirements of three years) there was no reason to refuse the application.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant and the Licensing Unit would be in contact to confirm the licence documentation.

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
- 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 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 Mr B was aware when he made an application that he would be referred to a Sub-committee due to the contents of the DBS report. It was added that the applicant had no conviction since 2014 and had not consumed alcohol since receiving a conviction for drinking and driving in 2011. He noted that he had three children and he needed a job to support his young family as he had recently been made redundant.

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

RESOLVED that the applicant was currently not 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 convictions.

Specific consideration was given to the following matters.

The applicant received a conviction for a series of offences from Gwynedd Magistrates Court (November 2011).

The first offence related to driving a car without Insurance contrary to section 143 of the Road Traffic Act 1988, and he received a fine of £120.00 and his

licence was endorsed.

The second offence was for drinking and driving contrary to section 5(1)(A) of the Road Traffic Act. He received a fine of £120.00, an order to pay costs and was disqualified from driving for 18 months.

The third offence was for driving a car contrary to the requirements of the licence and he received an order to pay £15 and his licence was endorsed.

The applicant received a conviction for two offences from Gwynedd Magistrates Court (October 2013). The first offence related to theft, contrary to section 1 of the Theft Act 1968 where he was ordered to pay costs of £100 and damages of £10. The second offence related to failure to surrender to custody, contrary to section 6(1) of the Bail Act 1976 and he received a fine of £50 and costs of £20.

The applicant received a conviction for a series of offences from Gwynedd Magistrates Court (June 2014). The first offence related to obstructing a police constable contrary to section 89 (2) of the Police Act 1996, and he received a fine of £90. The second offence related to using a vehicle without insurance contrary to section 143 (2) Road Traffic Act 1988, when he was disqualified from driving for a period of 12 months, an order to pay a fine of £110 and costs of £105.00. The third offence related to an offence of driving a car contrary to the requirements of the licence and he received an order to pay a fine and his licence was endorsed.

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 permanently barred from obtaining a licence, but should be expected to be free from conviction for an appropriate period as stated in the Policy, and to show evidence that he was a fit and proper person to hold a licence. The applicant has a responsibility to show that he/she is a fit and proper person.

Paragraph 4.5 of the Council policy was considered which stated that the 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 otherwise under the 1974 Act.

Paragraph 8 of the Policy deals with offences of dishonesty and paragraph 8.2 states that an application for a licence will normally be refused if the applicant has a matter to be considered (including warnings) for common assault that is less than three years prior to the date of application. This paragraph lists amongst other matters offences that deal with burglary.

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 12 months or more, unless a period of at least 18 has elapsed from the end of the disqualification period.

The sub-committee also gave consideration to paragraph 16.1 of the Council's policy that deals with repeat offending. Firstly, it is necessary to ensure that the convictions satisfy the individual policy guidelines, but that they together create a history of repeat offending that indicates a lack of respect for the welfare and property of others. Under the Policy it is a requirement that 10 years have elapsed since the most recent conviction.

The Sub-committee considered that the offence of dishonesty was historical and

therefore there were no grounds to refuse the application. In considering the individual driving offences, it appeared that they were beyond the time period considered in paragraph 12.10, but together they created a history of repeat offending that indicate a lack of respect for the welfare and property of others. Consequently, paragraph 16.1 came into force.

Although the Sub-committee accepted the explanation given by the applicant's representative on the background to the incidents, and that the applicant was unaware of the requirements of his licence, the offence of driving without ensuring that the licence addressed the requirements, was one that caused a risk to public safety.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant and that he also had the right to appeal against the Sub-committee's decision within 21 days of receiving the letter.

The meeting commenced at 2.00 pm and concluded at 3.25 pm

CHAIRMAN